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Forty-third Session, 1934

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GOVERNOR OF BENGAL.

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ALPHABETICAL LIST OF MEMBERS.

A

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Ali, Maulvi Hassan. [Dinajpur (Muhammadan).]
Ali, Maulvi Syed Nausher. [Jessore South (Muhammadan).]
Armstrong, Mr. W. L. [Presidency and Burdwan (European).]
Ashworth, Mr. C. G. [Presidency and Burdwan (European).]

B

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C

Chatterjee, Mr. B. C., Bar.-at-Law. [Bakarganj North (Non-Muhammadan).]
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman. [Faridpur North (Muhammadan).]

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*Oath taken on the 31st January, 1924.

Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman. (Nominated Non-official.)
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Choudhury, Maulvi Nural Absar. [Chittagong North (Muhammadan).]
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D

Dain, Mr. G. R., C.I.E. (Bengal Chamber of Commerce.)
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Das, Rai Bahadur Satyendra Kumar. [Dacca City (Non-Muhammadan).]
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Dutt, Rai Bahadur Dr. Haridhan. [Calcutta Central (Non-Muhammadan).]

E

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F

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G

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H

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Huq, Mr. A. K. Fazl-ul. [Bakarganj West (Muhammadan).]
Hussain, Maulvi Latafat. (Nominated Non-official.)

K

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Kasem, Maulvi Abul. [Burdwan Division North (Muhammadan).]
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Khan, Maulvi Tamizuddin. [Faridpur South (Muhammadan).]
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L

Law, Mr. Surendra Nath. (Bengal National Chamber of Commerce.)
Lockhart, Mr. A. R. E. [Presidency and Burdwan (European).]

M

Maguire, Mr. L. T. (Anglo-Indian.)
Maiti, Mr. R. [Midnapore South (Non-Muhammadan).]

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N

Nag, Reverend B. A. (Nominated Non-official.)
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P

Paul, Sir Hari Sanker, Kt. [Calcutta South (Non-Muhammadan).]
Poddar, Mr. Ananda Mohan. (Bengal Mahajan Sabha.)
Poddar, Seth Hunuman Prosad. [Calcutta West (Non-Muhammadan).]

Q

Quasem, Maulvi Abul [Khulna (Muhammadan).]

R

Raheem, Mr. A., C.I.E. [Calcutta North (Muhammadan).]
Rahman, Mr. A. F. [Rangpur West (Muhammadan).]
Rahman, Mr. A. F. M. Abdur-. [24-Parganas Rural (Muhammadan).]
Rahman, Maulvi Azizur. [Mymensingh North-West (Muhammadan).]
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Roy, Mr. S. N., C.I.E. (Nominated Official.)
Roy Choudhuri, Babu Hem Chandra. [Noakhali (Non-Muhammadan).]

S

Saadatullah, Maulvi Muhammad. [24-Parganas Municipal (Muhammadan).]
Sahana, Babu Satya Kinkar. [Bankura East (Non-Muhammadan).]
Samad, Maulvi Abdus. [Murshidabad (Muhammadan).]
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Sen, Mr. B. R. (Nominated Official.)
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Sen Gupta, Dr. Naresh Chandra. [Mymensingh West (Non-Muhammadan).]
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T

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Townend, Mr. H. P. V. (Nominated Official.)

W

Walker, Mr. W. A. M. (Indian Jute Mills Association.)
Wilkinson, Mr. H. R., C.I.E. (Nominated Official.)
*Williams, Mr. A. deC., I.C.S. (Nominated Official.)
Woodhead, the Hon'ble Mr. J. A., C.I.E. (Member, Executive Council.)

*Oath taken on the 14th February, 1934.

THE BENGAL LEGISLATIVE COUNCIL PROCEEDINGS

(Official Report of the Forty-third Session.)

Volume XLIII—No. 3.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 13th February, 1934, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the three Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 105 nominated and elected members.

Obituary reference.

Gentlemen of the Council, it is with sorrow too deep for utterance that I rise to record the melancholy death of the Leader of the House. The tragic suddenness of it has stunned us, and it is still difficult to believe that we shall no more see him in the House. Our sense of loss is quickened a hundredfold as he made his exit from the stage of our affairs without a sign or warning, but Providence has willed it and we must bow our heads in submission. Alas, he was not destined to enter the promised land of the Reforms for which he toiled so hard according to the light in him. We shall miss his personality and strong common sense, his ripe experience and administrative ability in the difficult days that lie before us, but let us not fail to find the permanent in the fleeting and the evanescent. It is not hard to comprehend that mutability cannot affect truth, or take away the value of real works done. It is, however, much too premature to speculate as to what will be the verdict of history on the prospective and retrospective effects of works done by Sir Provash in his lifetime or

actually determine, before the dust of controversy has completely disappeared, the exact nature of the native forces of his complex intellect and character, as a public servant. There were many who disagreed with his policy and views, many who disagreed with his readings and decisions and doubted if he had the vision of a seer, but there was none who disputed his ability, his mastery over facts and his determination to fearlessly pursue his ideal.

Sir Provash was the youngest son of the late Justice Sir Ramesh Chunder Mitter. After completing his education, he was enrolled as a vakil of the Calcutta High Court in 1897 where he soon rose to eminence. But his love for public affairs took him away from his profession. He joined the congress movement and served under the late Sir Surendranath Banerjea as one of his chief lieutenants.

He was elected to the Bengal Legislative Council in 1916 by the landholders of the Presidency Division and served in that capacity till the inauguration of the present Reforms in 1921 when he was again elected by the Presidency Landholders' Constituency. He was selected for the Ministry and was entrusted with the Education portfolio. Sir Provash remained a Minister for the full term of the First Council under the present constitution. In the Second Council, from 1924 to 1926, he was again elected from the Presidency Landholders' Constituency. In 1927 he was again returned from the Presidency Landholders and towards the end of that year he formed a Ministry on which he remained till July, 1928, defeating the *Swarajists* in their vigorous attack of the Ministry.

The premature lamentable death of Maharaja Kshaunish Chandra Ray of Nadia created a vacancy in the Governor's Executive Council which Sir Provash was called upon to fill from the forenoon of the 31st July, 1928. His term was due to expire in July last, but he was given an extension for a year which would have expired in June this year.

Sir Provash was Vice-President of the Governor's Executive Council and the Leader of this House from the year 1932. He was the President of the Indian Association, the National Liberal League and Vice-President and Secretary of the British Indian Association and also President of the Backward Classes Society, Bengal, for several years. He went to England in 1930 and 1931 to represent Bengal on the Round Table Conference where he fought stubbornly for Bengal's interests.

The title of C.I.E. was conferred on him in 1919, he was created a Knight in 1924 and a K.C.S.I. in 1933.

By his death His Excellency the Governor and his Cabinet have lost a valued councillor, and we a very eminent and distinguished colleague. I can speak from intimate personal knowledge that he was no ordinary politician. My long and close contact with him gave

the many real opportunities to study him from c... quarters, ... have no doubt that his deep insight into human chara... — extraordinary common sense, his cool courage and unbending determination to have his own way in the teeth of tenacious opposition and last though not the least his consummate diplomacy raised him to a level much higher than that of men who make politics their profession or join it for the glamour of office. Real politicians or administrators are not made, but they are born. For power, honour and gain a person may change one cloak for another to pass for what he is not, but that will never hide the inner man that dwells within him. Sir Provash was not a politician made to order. Politics was in his life-blood. He was not a creature of any clique or product of cliquism, but a real politician who rose to eminence by precise preparation and incessant industry combined with his political insight and instinct. This House had ample opportunities to realise this, and I am sure that it truly mourns his loss. I am also sure that it will be the wish of the Council to send a message of deep sympathy to Sir Provash's relatives. I would ask you to signify your assent by kindly rising in your places.

(Pause.)

Thank you, gentlemen. The Secretary will take the usual steps.

STARRED QUESTIONS

(to which oral answers were given)

Noabad taluks in Chittagong.

*58. **Haji BADI AHMED CHOWDHURY:** (*a*) With reference to the reply to a supplementary question to starred question No. 18 of the 9th August last, will the Hon'ble Member in charge of the Revenue Department be pleased to state how many petitions have been submitted to the local authorities up to the 22nd December, 1933, by the persons aggrieved by the enhanced rents of the Noabad *taluks* in Chittagong?

(*b*) What relief, if any, has been proposed to be given to those applicants?

SECRETARY to GOVERNMENT, REVENUE DEPARTMENT (Mr. O. M. Martin): (*a*) No such petitions have been received by the local authorities from the 9th August to the 22nd December, 1933.

(*b*) Does not arise.

Materials for construction of the New Howrah Bridge.

*59. **Maulvi NURAL ABSAR CHOUDHURY:** Will the Hon'ble Minister in charge of the Public Works Department be pleased to state whether the Government are considering the necessity of urging, upon the authorities concerned the desirability of encouraging and, as far as practicable, giving preference to the use of the Indian manufactured materials in the construction of the New Howrah Bridge? If not, why not?

MINISTER in charge of PUBLIC WORKS DEPARTMENT (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur): Government recognize the desirability of purchasing all stores for the public service in such a way as to encourage the development of the industries of this country to the utmost possible extent consistent with economy and efficiency and this principle has been embodied in the rules for the supply of articles required to be purchased for the public service, a copy of which is laid on the Library table. They have no doubt that the Commissioners of the new bridge who are, under the Howrah Bridge Act, 1926, primarily responsible for the selection of materials for its construction, will give due weight to this policy subject to the proviso that additional burdens should not be thrown on the fund of which they are trustees by the purchase and utilization of materials produced or manufactured in India.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Minister be pleased to state when he expects the construction of the new bridge to be begun?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: Sir, it is very difficult to give the exact date, but efforts are being made to start work on it as early as possible.

Jessore courts and Juma prayer adjournment.

*60. **Maulvi SYED MAJID BAKSH:** (*a*) Is the Hon'ble Member in charge of the Judicial Department aware that contrary to the Government circular all the courts of Jessore do not rise at 12-30 p.m. on Fridays?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of directing that the circular is strictly followed in future?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) The only instances of the kind referred to of which Government are aware are three occasions when work was done for a few minutes between 12-30 and 2 at the request of the parties.

(*b*) No.

Maulvi SYED MAJID BAKSH: With reference to answer (*b*), will the Hon'ble Member be pleased to state whether Government are not interested in the maintenance of their own orders?

The Hon'ble Mr. R. N. REID: Government are always interested in carrying out their own orders.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member please see that the interests of the parties in such cases are not interfered with?

The Hon'ble Mr. R. N. REID: That is a matter which Government always consider and have always at heart.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Member be pleased to state why it is that Government do not consider it desirable to enforce the circular in question?

The Hon'ble Mr. R. N. REID: Sir, my answer to (*a*) states that the only instances are these three occasions when work was done for a few minutes at the request of the parties. I can assure the hon'ble member that Government are certainly interested that the circular referred to should be carried out.

Maulvi SYED MAJID BAKSH: Is the Hon'ble Member aware that Babu Madhusudan Ray, the Additional Subordinate Judge, sat for half an hour more on one occasion?

The Hon'ble Mr. R. N. REID: No, Sir, Government are not aware of the fact, but if the hon'ble member would give the details of any particular case, I should be glad to inquire into it.

Orders of externment in Midnapore.

*61. **Mr. R. MAITI:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state how many persons from each subdivision of the district of Midnapore have recently been ordered to leave the district for an indefinite period under the provisions of the Bengal Suppression of Terrorist Outrages Act of 1932?

(*b*) Is it a fact that amongst the externees there are several practising lawyers of Midnapore town and some of the teachers of the Contai National School who were earning their livelihood in their respective places?

(*c*) What are the particular acts for which each of the externees has been placed under the ban referred to above?

(*d*) Is the Hon'ble Member aware that similar orders were passed against the lawyers of the Midnapore town who had been previously engaged in defending the accused in the Burge murder conspiracy case but subsequently recalled?

(*e*) Is the Hon'ble Member aware that the teachers and the students of the Contai National School held a meeting in which they strongly condemned the murder of Mr. Burge?

(*f*) If the answer to (*e*) is in the affirmative, why the said school was declared illegal and taken possession of by the authorities?

(*g*) Is the Hon'ble Member aware—

(*i*) that the externed Secretary and a teacher of the Contai National School sent representations to the District Magistrate of Midnapore asking him openly to prosecute them on a definite charge of helping terrorism if there is anything against them, while stating that they had never done nor encouraged any act of violence, being absolutely pledged to the creed of non-violence; and

(*ii*) that no reply was at all sent to the said representations, nor was any action taken on them?

(*h*) Do the Government propose recalling the order in cases of all the externees?

(*i*) If the answer to (*h*) is in the negative, are the Government considering the desirability of making provision for the maintenance of the families of the externed persons as in the case of persons interned under the Criminal Law Amendment Act?

(*j*) Have the Government considered the question that the earning members of such families have been forced to leave their respective places of business all on a sudden and go outside the district without making any arrangement for their families?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) Sadar subdivision 22. Contai subdivision 5.

(*b*) Yes. Of the 22 externed persons of the Sadar subdivision 8 were practising lawyers and of the externed persons of the Contai subdivision 4 were teachers of the Contai National School.

" (c) Government do not consider that it would be in the public interest to publish this information.

(d) It is not known to Government on what dates defence lawyers were briefed by the accused in the case, but when the District Magistrate became aware that certain persons on whom such orders had been passed had been so briefed the orders were treated as inoperative in their cases for the time being.

(e) No such resolution was brought to the notice of the local officers or of Government.

(f) Does not arise.

(g) (i) The District Magistrate received a representation from the Secretary of the School. The Secretary requested that he be furnished with proof of the charge that he assisted terrorism.

(ii) Yes.

(h) and (i) No.

(j) Yes.

Babu SATISH CHANDRA RAY CHOWDHURY: With reference to answer (e), will the Hon'ble Member be pleased to state as to what is exactly meant by the expression "public interest"? Is it because that the public will not be satisfied with the version of Government?

The Hon'ble Mr. R. N. REID: No, Sir, that is not the intention.

Babu SATISH CHANDRA RAY CHOWDHURY: I should like to know whether Government do not wish that the public should know all these facts so that they may seek redress?

The Hon'ble Mr. R. N. REID: Sir, I have nothing to add to the answer which I give in (e).

Mr. NARENDRA KUMAR BASU: With reference to answer (g) (ii), will the Hon'ble Member be pleased to state why no reply was at all sent to the said representations?

The Hon'ble Mr. R. N. REID: I am afraid, Sir, I have no further information on the subject beyond what is stated in the answer.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member kindly see to it that a reply to the representations are sent at an early date?

The Hon'ble Mr. R. N. REID: I cannot see, Sir, that it is always necessary for or incumbent upon any Government servant to reply to every letter which he receives.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether it is not necessary to reply to a representation from an externed secretary and teacher of a school, who sent a representation to the District Magistrate asking for redress?

The Hon'ble Mr. R. N. REID: There may be circumstances under which it may not be necessary to reply to such a representation.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Mr. Reid be pleased to state the circumstances under which replies to representations, etc., are considered necessary?

The Hon'ble Mr. R. N. REID: I should like to have notice of that question, Sir.

Mr. SHANTI SHEKHARESWAR RAY: With reference to answer (*d*), will the Hon'ble Member be pleased to state whether the orders were cancelled by the District Magistrate?

The Hon'ble Mr. R. N. REID: I have said in the reply that the orders were treated as inoperative in their cases for the time being.

Mr. SHANTI SHEKHARESWAR RAY: I want to know whether the District Magistrate cancelled his previous orders? Will he be pleased to say "Yes or No"? (Laughter.)

The Hon'ble Mr. R. N. REID: I have already given a reply, Sir. If the orders were treated as inoperative, I should think that the inference is that they were not cancelled, but temporarily suspended.

Mr. SHANTI SHEKHARESWAR RAY: Is it a fact that the District Magistrate was instructed to make these orders inoperative?

The Hon'ble Mr. R. N. REID: No, Sir.

Mr. SHANTI SHEKHARESWAR RAY: If no such instructions were given, how is it that the Commissioner of the Burdwan Division said that these orders should be treated as inoperative?

The Hon'ble Mr. R. N. REID: I am sorry, Sir, that I am quite unable to answer that question.

Dr. NARESH CHANDRA SEN GUPTA: Will the Hon'ble Member be pleased to state when do the Government contemplate externing the rest of the inhabitants of Midnapore? (Laughter.)

The Hon'ble Mr. R. N. REID: No such step is under contemplation.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to state whether, as a result of the orders becoming inoperative, the lawyers concerned were allowed to appear in the case?

The Hon'ble Mr. R. N. REID: Yes, Sir.

Route marches of soldiers in Midnapore.

*62. **Mr. NARENDRA KUMAR BASU:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state whether it is a fact that during their route marches in the district of Midnapore in December, 1933, and January, 1934, soldiers have been used in making house-searches?

(*b*) Have the Government received any complaints of atrocities committed by the soldiers conducting searches or making domiciliary visits during these marches?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Member be pleased to state whether any inquiry has been made into such complaints? If so, with what result?

(*d*) Has any information been received by Government about atrocities committed—

(*1*) at Bally Govindapur on the 9th December,

(*2*) at Palpara on the same day,

(*3*) at Banamali Chatra on the 26th December,

(*4*) at Bajiri on the 26th December,

(*5*) at Baitrakunda on the 27th December, and

(*6*) at Katraka on the 3rd January, 1934?

(*e*) If the answer to (*d*) is in the affirmative, have any inquiries been made? If so, with what result?

The Hon'ble Mr. R. N. REID: (*a*) No. Troops have been used only to provide cordons round houses in which the civil authorities were conducting searches in accordance with the provisions of law.

(*b*) Government have received two such complaints.

(*c*) Yes. The allegations were found to be untrue.

(*d*) (*1*) A complaint was received from Babu Ashutosh Roy Chaudhury.

(2), (3), (4) and (5) No.

(6) A complaint was received from one Kumud Charan Bera.

(c) The allegations made in items (1) and (6) have been investigated and found to be false.

Mr. NARENDRA KUMAR BASU: With reference to answer (a), will the Hon'ble Member be pleased to state under which provision or provisions of the law were these troops so employed?

The Hon'ble Mr. R. N. REID: I should like to have notice of this question, Sir.

Mr. NARENDRA KUMAR BASU: The Hon'ble Member says in his printed reply that troops have been used only to provide cordons round houses in which the civil authorities were conducting searches in accordance with the *provisions of the law* Will the Hon'ble Member still say that he is unaware under what provisions of the law this was done?

The Hon'ble Mr. R. N. REID: The search was conducted under the provisions of the law.

Mr. NARENDRA KUMAR BASU: In the absence of any punctuation mark in the answer, which is significant, I want to know whether these troops were used in contravention of the ordinary provisions of the law.

The Hon'ble Mr. R. N. REID: I am afraid, Sir, that I am unable to reply to this question.

Mr. NARENDRA KUMAR BASU: With reference to answers (c) and (e), will he be pleased to state who held these investigations?

The Hon'ble Mr. R. N. REID: I cannot reply to this question offhand. But I know that in one case the investigation was conducted by the Additional District Magistrate, and in the other it was done by a reliable senior Government officer, though I cannot say offhand who.

Mr. NARENDRA KUMAR BASU: Were the complainants thoroughly examined by the investigating officers?

The Hon'ble Mr. R. N. REID: I should like to have notice.

Mr. NARENDRA KUMAR BASU: Has the Hon'ble Member seen the report submitted after investigation?

The Hon'ble Mr. R. N. REID: Yes, Sir, I have seen the report.

Mr. NARENDRA KUMAR BASU: Is the Hon'ble Member satisfied that a proper investigation was made, inasmuch as the complainants were not examined?

The Hon'ble Mr. R. N. REID: Sir, I am satisfied that a proper investigation was made.

Dr. NARESH CHANDRA SEN GUPTA: With reference to answer (*a*), will the Hon'ble Member be pleased to state whether he is aware of any law by which soldiers can be used by the civil authorities for the purpose mentioned?

The Hon'ble Mr. R. N. REID: The military can be called in in aid of the civil power.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether the troops were placed under the command of the military authorities or of the civil authorities when the military authorities were asked to provide cordons for the purpose of house search?

The Hon'ble Mr. R. N. REID: Sir, if I understand the question aright, my answer would be that in such cases the military are called in to aid the civil authorities.

Mr. P. BANERJI: Is it not a fact that one or two members of the troops committed rape in Midnapore?

The Hon'ble Mr. R. N. REID: I am not aware of any such thing.

Mr. P. BANERJI: Is the Hon'ble Member aware that such a complaint was brought to the notice of Government by a member of this House?

The Hon'ble Mr. R. N. REID: Yes, Sir.

Mr. P. BANERJI: Will he be kind enough to inform the House whether there has been any investigation in the matter?

The Hon'ble Mr. R. N. REID: The case has been sent for investigation.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Faridpur railway station.

28. Rai Sahib AKSHOY KUMAR SEN: Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state whether the Railway authorities will take up the construction work of the proposed railway station at Faridpur during the next financial year?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): This Government have been informed by the Railway Board that it is intended to take up the construction of a new station at Faridpur in the next financial year provided that the allotment for the purpose in the Budget is approved by the Legislative Assembly.

Recruitment of sub-assistant surgeons.

29. Babu SATISH CHANDRA RAY CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to lay on the table a statement showing for each of the last 5 years—

(*i*) how many sub-assistant surgeons were recruited to Government service; and

(*ii*) of the number so recruited how many were selected from the successful students of each medical school in Bengal?

(*b*) Will the Hon'ble Minister be pleased to state whether all the schools in Bengal are treated equally in the matter of recruitment to Government service?

(*c*) Is it a fact that no selection was made from the successful candidates of some of the *mufassal* medical schools like the Lytton Medical School, Mymensingh, during the last three years?

(*d*) If the answer to (*c*) is in the affirmative, what is the reason for the same?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*)(*i*) 48.

(*ii*) A statement is laid on the table.

(b) The most suitable candidates are selected irrespective of the schools where they have been trained.

(c) Yes.

(d) Candidates trained in other schools were considered to be more suitable.

Statement referred to in the reply to clause (a) (ii) of unstarred question No. 29, showing the number of passed students recruited from different medical schools.

Name of institution.	Number recruited.
1929.	
Campbell	... 1
Dacca	... 2
1930.	
Campbell	... 8
Dacca	... 7
Lytton Medical School, Mymensingh	... 3
Ronaldshay Medical School, Burdwan	... 2
1931.	
Campbell	... 3
Dacca	... 2
1932.	
Campbell	... 3
Dacca	... 7
Ronaldshay Medical School, Burdwan	... 1
1933.	
Campbell	... 3
Dacca	... 4
Ronaldshay Medical School, Burdwan	... 2
Total	... 48

Babu AMULYADHAN RAY: Will the Hon'ble Minister be pleased to state that out of 48 appointments how many belonged to the scheduled castes?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I should like to have notice of this question.

Babu SATISH CHANDRA RAY CHOWDHURY: With reference to answer (*b*), will the Hon'ble Minister be pleased to state what he means by the expression "suitable candidates"? Does it mean the order of merit at the examinations?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir, not necessarily. But I might add that it is usually the criterion of selection.

Babu AMULYADHAN RAY: Will he be pleased to inform the House in which month of the year 1933 the appointments were made for that year?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I should like to have notice of this question.

Erosion of Narayanganj town.

30. Mr. J. W. R. STEVEN: (*a*) Is the Hon'ble Member in charge of the Irrigation Department aware—

(*i*) that the continual erosion of the river in the Sitalakhya *khal*, caused by the inflow of the Dhaleswari into the Burraganga, is seriously threatening the southern portion of the town of Narayanganj;

(*ii*) that, as a result of this inward flow during the past few years, severe cutting has taken place, and many acres of arable land and much valuable property have already been destroyed; and

(*iii*) that efforts already made by local bodies to prevent further erosion to the southern end of Narayanganj, have been rendered only partially effective because the inflow from the Dhaleswari has increased?

(*b*) Is the Hon'ble Member aware also—

(*i*) that the *khal* leading from the Dhaleswari to the Burraganga has (when the rivers are down) only been open for steamer traffic during the past few years;

(*ii*) that this *khal* has deepened;

(*iii*) that by going by Gopechur steamers will only take two hours more; and

(*iv*) that no steamer route will therefore be affected by blocking the *khal*?

(*c*) Are the Government considering the desirability of saving the town of Narayanganj by permanently blocking the Dhaleswari entrance to the *khal*, and by allowing the river to resume its normal course?

(*d*) If the answer to (*c*) is in the affirmative, are the Government also considering the desirability of taking the work in hand immediately now when the rivers are down, to arrest further erosion and to stop further damage to property during the next floods?

MEMBER in charge of IRRICATION DEPARTMENT (the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim Chuznavi, of Dilduar): (*a*)(*i*) Yes.

(*ii*) Yes, there has been a certain amount of erosion along the Sitalakhya *khal*.

(*iii*) Yes.

(*b*) (*i*) The channel between the river Dhaleswari and the offtake of the Sitalakhya *khal* used to be open, then the mouth silted up, and in recent years it reopened.

(*ii*), (*iii*) and (*iv*) Yes.

(*c*) and (*d*) Such a suggestion was considered in the department but was not placed before Government on the ground that closure might be considered as an interference with the water and navigation rights in the *khal*; instead it has been proposed to attempt to arrest the further development of the *khal* by piling to train the current and the question is now under the consideration of Government.

Rai Bahadur SATYENDRA KUMAR DAS: With reference to answers (*c*) and (*d*), will the Hon'ble Member be pleased to state whether the training of the current by piling has proved a success?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: If the hon'ble member would read the

answers given, he would find that the question is still under the consideration of Government. I cannot add anything more at the present stage.

Mr. J. W. R. STEVEN: Will the Hon'ble Member be pleased to give his serious consideration to the question of closing the Sitalakhya *khal* and also give his assurance that the whole matter will be looked into without any delay, owing to the urgency of the matter?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: Sir, I am very pleased to give the assurance asked for by the hon'ble member. I shall certainly look into the matter very carefully.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to state whether there has been any dredging operation?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: Not that I am aware of.

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Bengal Criminal Law Amendment Bill, 1934.

The Hon'ble Mr. R. N. REID: Sir, I beg to present the Report of the Select Committee on the Bengal Criminal Law Amendment Bill, 1934.

Bengal Waterways Bill, 1934.

Mr. PRESIDENT: Now we get back to the discussions on the amendments relating to the Bengal Waterways Bill, 1934.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I beg to move that in clause 37(*1*)(*a*), in line 3, for the words "sixteen rupees" the words "eight rupees" be substituted.

Sir, my reason is that everyone ought to be given the same amount for doing the same kind of service, and I think that in the statute book there should be no invidious distinction in the matter.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I shall commence by telling the House that this is a matter which I intended to leave to the House. As members are very anxious to reduce the amount of fees for attending a meeting of the Trust or for attending a similar meeting of the District Committee, it is for the House to decide what that amount should be. The amendment moved by the Khan Bahadur seeks to reduce the amount from Rs. 16 to Rs. 8. That I consider is a low figure and accordingly I am not prepared to accept it, because, after all, when we look at the allowances given elsewhere, namely, in the Calcutta Improvement Trust, we find that the amounts given are Rs. 20 and Rs. 10. But, while I am not prepared to accept this amendment, I am prepared to make a suggestion that instead of Rs. 16 and Rs. 8 the figures Rs. 12 and Rs. 6 be accepted. I would be quite prepared to accept that.

Mr. PRESIDENT: Khan Bahadur, are you prepared to accept this suggestion of the Hon'ble Member or do you insist on your amendment?

Khan Bahadur Maulvi AZIZUL HAQUE: I do not insist upon my amendment, but I would like to know what the Hon'ble Member suggested, for I could not clearly catch what he said.

The motion was put and lost.

Maulvi ABUL QUASEM: I beg to move that in clause 37(*1*)(*a*), line 6, after the word "each" the words "day of a" be inserted.

Sir, the object of my amendment is this: a meeting of the Waterways Board may be spread over more than a day, just as a meeting of this Council may last longer than a day. When a meeting of this Council—I mean the Legislative Council—is held, members hailing from the *mufassal* and living at a certain distance from Calcutta are allowed daily halting allowances. So, Sir, many members will come from the *mufassal* to attend meetings of the Waterways Board. I think it is only consistent and proper that they should be treated just as members of this Council are treated, that is, on each day that a meeting is held they should be given the same fee. It is not a new thing that I am asking for. I repeat, Sir, that it would only be just and proper that members of the Board who have got to stay in Calcutta in connection with a meeting of the Board for more than a day should get a fee for each day that a meeting is held, and they attend such meeting.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: Sir, I rise to oppose this amendment. If

the mover of the amendment will read the clause as it is, he will find it stated that every trustee and every district member attending a meeting of the Board shall be entitled to receive a fee of sixteen rupees and every member of a Committee appointed under section 35 shall be entitled to receive a fee of eight rupees for each meeting of the Board or the Committee. I take it that a meeting of the Committee would be over in course of that very day. If it is ever the case that a meeting goes over to the next day, the provision which has been embodied here by the Select Committee is on a par with a similar provision which will be found in the Calcutta Improvement Trust Act, and it is not the case that for each day of such meeting members will be entitled to their fees, but for that particular meeting only and in ninety-nine cases out of a hundred such meetings would generally be over in course of the day. Having regard to the remarks which fell from various members of the House about the paucity of the financial arrangements in regard to the expenses of the Board, I am perfectly certain that members will not wish to burden the Trust with more expenditure than is necessary. I think they would rather wish to curtail expenditure and in this view I must oppose the amendment.

The motion being put a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Ali, Maulvi Syed Nausher.
Bahah, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Maulvi Abdul Ghani.
Chaudhury, Maulvi Nurul Absar.
Faziullah, Maulvi Mohammad.
Haque, Khan Bahadur Maulvi Azizul.
Haque, Kazi Emdadul.
Hussain, Maulvi Muhammad.
Karim, Maulvi Abdul.
Khan, Maulvi Tamizuddin.
Momin, Khan Bahadur Muhammad Abdul.
Quasem, Maulvi Abul.
Roy, Mr. Shanti Shekhareswar.
Samad, Maulvi Abdus.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Surat Chandra.
Banerji, Rai Bahadur Sailendra Nath.
Basir Uddin, Khan Sahib Maulvi Muhammad.
Basu, Babu Jatindra Nath.
Birkmyre, Mr. H.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Das, Rai Bahadur, Satyendra Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Dutt, Mr. G. S.
Edgley, Mr. R. G. A.
Ezuefji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghose, the Hon'ble Sir Charu Chunder.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildoar.
Gilchrist, Mr. R. N.
Hladding, Mr. D.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Gupta, Mr. J. N.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hussain, Maulvi Latafat.
Kasem, Maulvi Abul.
Martin, Mr. G. M.
Mitter, Mr. S. C.
Mittra, Babu Surat Chandra.

Ahmed, Maulvi Nasiruddin.
Bagchi, Maharaja Srie Chandra, of Kasimbazar.
Badrudduja, Haji Mon'ble Mr. Khwaja.
Bidwell, Mr. G. K.
Bishop, Mr. A.
Bahman, Mr. A. F. M. Abdur-.
Bal Mahanti, Mowlendra Deb.
Ray, Babu Khetter Mohan.
Roychowdhury, Babu Satish Chandra.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, Mr. S. N.
Roy Chowdhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Sarker, Rai Bahadur Bebudi Mohan.
Sen, Rai Sahib Akshoy Kumar.
Sen, Mr. S. R.
Singha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Sulaiman, Maulvi Muhammad.
Sumner, Mr. C. R.
Thompson, Mr. W. H.
Townsend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The "Ayes" being 20 and the "Noes" 60, the motion was lost.

Haji BADI AHMED CHOWDHURY: I beg to move that after clause 37(*1*)(*a*), the following be inserted, namely:—

"Provided that no Government servant shall be entitled to any fees for attending a meeting."

The member made a speech in the vernacular in support of his amendment.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: I am quite willing to accept this amendment, particularly on account of the brevity with which it has been moved. If other members had been as brief, I would have been more inclined to accept their amendments.

Dr. NARESH CHANDRA SEN GUPTA: Will the Hon'ble Member tell us, Sir, whether under the Government Servants' Conduct Rules, Government servants are entitled to have fees for attending meetings?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: They are entitled, with the permission of Government, to accept fees.

The motion was put and agreed to.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 37 (*1*)(*a*)(*i*), in line 1, the words "a quorum is present and" be omitted.

My object, Sir, in moving this amendment is that the provisions in the Bill have made matters a bit difficult. Subject to the provisions of sub-sections (*2*) and (*3*) "every Trustee and every district member, attending a meeting of the Board.....shall get a fee.....at which a quorum is present.....".

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I said I was willing to accept the amendments moved with due brevity. I am afraid the mover has not exercised that brevity. However, I am willing to accept this amendment also.

The motion was put and agreed to.

Maulvi SYED MAJID BAKSH: I beg to move that clause 37(*1*)(*a*)(*ii*) be omitted.

There is a provision here, Sir, that when he attends from the beginning to the end thereof, or for such period as the person presiding at the meeting may consider sufficient, that justifies the payment of the fee. It is clearly left to the discretion of the President to decide whether the member is not attending from the beginning to the end. A man comes and attends a meeting, and it is left entirely to the discretion of the presiding officer to decide. He may attend for a period, and for such period he is not entitled to a fee; therefore, he will not get a fee. His presence at the meeting ought to be sufficient to enable him to get the fee; it should not be left to the discretion of the President to decide the matter.

Dr. NARESH CHANDRA SEN GUPTA: I rise to oppose this amendment. In this Council, Sir, we are familiar with some members who come from the *mufassal*, and attend for half a minute and then go away. If my friend, Maulvi Majid Baksh, made an alternative suggestion, instead of the discretion of the President, I would have understood it. But to get rid of this provision altogether is not justified.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I share for once the sentiment of my friend, the learned doctor, and I equally oppose this amendment. I do not think every member is entitled to a fee; merely putting in an appearance is not sufficient. Furthermore, my friend was not brief. I oppose this.

The motion was put and lost.

The motion that clause 37, as amended, stand part of the Bill was put and agreed to.

The motion that clauses 38 and 39 stand part of the Bill was put and agreed to.

Clause 40.

Mr. L. R. FAWCUS: I beg to move that for the proviso to sub-clause (*1*), of clause 40, the following provisos be substituted, namely:—

"Provided that an estimate or contract for a project or for a work chargeable to a particular project, shall not be sanctioned or made without the approval of—

(*a*) the Board, if such estimate or contract involves expenditure of more than ten thousand rupees,

(*b*) the Local Government, if such estimate or contract involves expenditure of more than fifty thousand rupees:

Provided further that the total amount of such estimates sanctioned in respect of works chargeable to a particular project shall not exceed the estimated cost of the total project as approved by the competent authority."

The object of this amendment is very clearly explained in the note of dissent by the Hon'ble Member in charge of the Bill. The point is really that if the total estimate for any work exceeds the Chairman's power of sanction, or that of the Board whichever the sanctioning authority may be, then the Chairman or the Board, as the case may be, may not, under the existing section, sanction any small item within that estimate. Suppose, for example, in the course of some operations, a *chaukidar's* shed has to be put up for Rs. 50; then if the whole estimate is beyond the power of the Chairman's sanction, he cannot sanction that small item as the section now stands. Therefore, the wording of the section has been altered so as to make it clear that the criterion is not the power of the sanction of the Chairman or of the Board, in respect of the total estimate, but the power of sanction of the Chairman or the Board in respect of any particular item. Also in order to prevent the possibility of the Chairman or the Board exceeding their total power of sanction of the complete estimate by sanctioning a number of small individual estimates it has been provided as a matter of caution that the total amount of such estimates to be sanctioned in respect of particular projects shall not exceed the estimated cost as approved by competent authority. This is rather a technical explanation, but the House will, I think, understand it fully if they will read the Government note of dissent.

Mr. NARENDRA KUMAR BASU: I rise to oppose this. After all, we have heard from the Hon'ble Member in charge that any motion not moved with the utmost brevity will be opposed by him. I hope he will be consistent and not accept this. I oppose this motion for more reasons than one. I think the reason that I am going to put forward now will be enough. It is this: Members will find in the

Bill, as originally presented, a proviso that an estimate or contract involving expenditure exceeding one lakh of rupees shall not be sanctioned or made without the previous approval of the Board. That is to say, there was a curb upon the power of the Chairman or other member of the Board in accordance with the rules made under section 19. But the Board was at that time what the Hon'ble Member has been professing so loudly for the last few months to be an almost autonomous Board, or a *Swaraj* Board whichever the Hon'ble Member prefers to call it. In Select Committee the powers of the Board were curtailed. The Select Committee said that for any expenditure above rupees ten thousand and less than one lakh, the Board's sanction would be enough, but over one lakh, it must have the previous sanction of the Local Government. Now, Sir, comes along this amendment by which the Hon'ble Member further clips down the powers of the Board, and says that for any estimate above Rs. 50,000, the Board must wait for the sanction of the Local Government. I submit, Sir, this is a travesty of an autonomous Board. It is not only not a *Swaraj* Board, but very much inferior to many other autonomous bodies that we know of. Sir, I can hardly visualise any beneficial project for the betterment of waterways which will not cost at least Rs. 50,000. The idea of the Hon'ble Member regarding the activities of the Waterways Board to which he is going to give the munificent donation of Rs. 2,30,000 from the coffers of Government, is made more manifest by this amendment that the Board will not have the power to sanction expenditure above Rs. 50,000 because any estimate exceeding Rs. 50,000 must go to the Local Government. I submit, Sir, that if the Hon'ble Member is pleased to press this amendment to a division and wants to get it through the Council, it will show that all professions and protestations made in introducing the Bill and in presenting the Report of the Select Committee are rather innocuous, and what he wants is to make the Board dependent on a department of Government without any real responsibility. I, therefore, oppose this amendment.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I have very little to add to what has been said by Mr. Fawcus. I will say this, that, there is an old adage which says "a burnt child dreads the fire." Well, we had the spectacle in this House of the Hon'ble Minister for Self-Government rising to introduce a Bill in order to take in hand certain further control of the affairs conducted by certain other *Swaraj* institutions. Having regard to our experience ranging over the last few years, I think I can say that it will be wholesome to introduce further control of the finances of the Board at least for the time being, by Government, and with that idea this particular section has been put in. Furthermore, as has been explained, the object of the amendment is, on the other hand, not to

hamper any work, any small work, that there may be and can easily be undertaken irrespective of any sanction by a higher authority. So, this amendment has a double object. On the one hand, it is to provide for a further check, and on the other, not to make it impossible in case of a minor work and so on. I certainly think the amendment proposed is not an improvement on the clause as drafted by the Select Committee. As such, I oppose what my friend says, and I beg to support the amendment moved by Mr. Fawcus.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. Are not these amendments, 187 onwards, dependent upon the original wording as it came out from the Select Committee. If there is a voting on amendment No. 184 and the new proviso is accepted, then all these amendments will be useless.

Mr. PRESIDENT: That is why I am asking the different intending movers to move their amendments at this stage to enable the House to decide which of them should be accepted—the Hon'ble Member's amendment or any other.

Khan Bahadur Maulvi AZIZUL HAQUE: May I move this amendment and also an alternative amendment to amendment No. 184? I want to change the proviso to amendment No. 184 by adding certain words to it so that if this motion is rejected amendment No. 187 will remain.

Mr. PRESIDENT: What is it that you want to add?

Khan Bahadur Maulvi AZIZUL HAQUE: I want to substitute the words "five thousand" for the words "ten thousand" in proviso (*a*) to clause 40(*1*).

Mr. PRESIDENT: Can't you move an amendment to that effect in the event of the Hon'ble Member's amendment being carried?

Khan Bahadur Maulvi AZIZUL HAQUE: Yes, Sir.

Mr. PRESIDENT: In that case I shall go on with the amendments as they stand. In the meantime you may write out your new amendments.

Maulvi ABUL QUASEM: I beg to move that in proviso (*a*) to clause 40(*1*), in line 2, for the words "ten thousand" the words "five thousand" be substituted.

Sir, the reason which has actuated me to move this amendment is this. The Chairman of the Board is empowered to sanction an estimate or accept a contract to the extent of Rs. 10,000. I think, Sir, that this

power is rather excessive. Every contract and every estimate should ordinarily come before the Board. Only in cases of contracts and estimates of minor importance the Chairman might be given the final power. Rs. 10,000 is a big sum and I feel, Sir, that a contract or an estimate involving an expenditure of that amount should receive the approval of the Board. That is why I consider that Rs. 5,000 should be the utmost limit of the power of the Chairman in connection with a contract or an estimate.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I support the motion of Maulvi Abul Quasem. The Hon'ble Member has referred to the burnt child. Well, there are burnt children other than the Government and there are reason to fear that this power, unless it is curtailed, will lead to abuse. There will be fire ahead. As I said, one has got to be afraid of the abuse. If the Hon'ble Member is afraid of abuse of power by the Board, there are good reasons to be afraid of abuse of power by the Chairman of the Board and abuse of the control by Government itself. In these respects we are in the position of burnt children. We know how the Government are taking time giving their sanction in respect of the electric schemes of the Calcutta Corporation.

Kazi EMDADUL HOQUE: Sir, I move that instead of "ten thousand" the words "one thousand" be substituted. We do not like that larger power should be given to the Chairman in the matter of the estimate. We want to give much less power than what is contemplated in the Bill. I want that the power should be restricted to rupees one thousand only.

Maulvi Abdul Hamid Shah moved that in proviso (*b*) to clause 40(*1*), in lines 2 and 3, for the words "one lakh of rupees," the words "fifty thousand rupees" be substituted, and delivered a speech in Bengali in support of it.

The following is a translation of his speech:—

Mr. President, Sir, a project, costing a lakh of rupees is no matter of joke. It may necessitate a close consideration of many a problem affecting the internal affairs of the country. Hence, if the Board is entrusted with the ultimate authority of dealing with such big projects there is always the danger that the interests of the public may not be properly attended to. It is, therefore, desirable not to delegate to the Board the authority of disposing of projects costing a lakh of rupees but to give it powers sufficient to deal with projects worth Rs. 50,000 only. Any scheme costing more than Rs. 50,000 should be finally decided upon by the Local Government, and this will provide for every matter touching public welfare being brought to the notice of the Government. With these points I beg to move the amendment standing in my name.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I shall be extremely brief. I oppose all these amendments.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I move that in the event of the Hon'ble Member's amendment (No. 184) being carried, the words "ten thousand" in proviso (*a*) to clause 40(*1*) be substituted by the words "five thousand." Sir, part of this has already been explained. Sir, it is no question of confidence or no confidence: an officer drawing Rs. 3,000 may be given the power to sanction an estimate of a lakh of rupees or a contract of Rs. 10,000 under certain circumstances. The question is whether the Legislature should entrust the duty of sanctioning a contract of Rs. 10,000 to the Chairman. That is a matter to be judged. This Board has not yet functioned. We do not know how the Board is going to function and what sort of person the Chairman is going to be. That being so, it is eminently desirable that the Legislature should so draft the Act as to make it such that there may not be any unnecessary abuse of power. I do not question that it may sometimes be impossible for an officer to carry on the work, but at the same time I do feel that this House should put certain restraint on the officer. After all, Sir, we are not dealing with a large amount of money and if the Chairman is empowered to sanction a particular project, he can finish all the money. That is why I feel that it is reasonable that the Chairman's power of sanctioning in the case of contracts should not exceed Rs. 5,000. As I say, this is a new thing and we have absolutely no idea how this will function. It may be that as a result of 5 years' working or so it may be necessary to give more powers to the Chairman, but in the initial stages I think it is wisdom that there should be a certain amount of restraint, especially because the Chairman can sanction 50 projects. Sir, may I be permitted to say that we do not like that all the irrigation budgets should be exhausted in sectional houses or in the houses of the engineers?

Mr. L. R. FAWCUS: There is one point which, I am afraid, the Khan Bahadur has overlooked and that is that maintenance works have to be done very quickly. Supposing, Sir, some revetment on the bank of a river has gone wrong and it is necessary to spend immediately a comparatively small sum, say, from Rs. 5,000 to Rs. 10,000 on it in order to save a possible expenditure of half a lakh later on. I submit, Sir, that the Chairman should be able to do that at once of his own power rather than wait for a month, it may be longer, in order to obtain the sanction of the Board. I can assure this House that criterion of Rs. 10,000 was arrived at after considerable discussion and consultation with experts, and it is believed that it is in the interest of all concerned that this amount of power should be given to the executive officers.

The motion of Khan Bahadur Maulvi Azizul Haque that for the words "ten thousand" the words "five thousand" be substituted in proviso (*a*) in amendment No. 184 of the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim Ghuznavi, of Dildúar, was put and lost.

The motion being then put a division was taken with the following result:—

AYES.

Afzal, Kawabzada Khwaja Mohammad, Khan Bahadur.
Armstrong, Mr. W. L.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Surat Chandra.
Banerji, Rai Bahadur Saliendra Nath.
Barma, Rai Sahib Panchanan.
Barman, Babu Promhari.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Birkmyre, Mr. H.
Bottomley, Mr. J. M.
Chaudhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Dain, Mr. G. R.
Dutt, Mr. G. S.
Edgley, Mr. N. G. A.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghose, the Hon'ble Sir Charu Chandra.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildúar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Babu Protulla Kumar.
Guha, Mr. P. N.
Gupta, Mr. J. N.
Hogg, Mr. S. P.
Hooper, Mr. S. G.
Hussain, Maulvi Latafat.
Kasim, Maulvi Abul.
Khan, Mr. Rasser Rahman.
Martin, Mr. C. M.
Miller, Mr. G. G.
Mitter, Mr. S. C.
Mittra, Babu Surat Chandra.
Nag, Babu Suh Lal.
Nandy, Maharaja Srij Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nisbett, Mr. C. K.
Raheem, Mr. A.
Ray, Babu Nagendra Narayan.
Reid, the Hon'ble Mr. R. N.
Ray, the Hon'ble Sir Bijoy Prasad Singh.
Ray, Mr. Saileswar Singh.
Roy, Mr. Surat Kumar.
Roy, Mr. S. N.
Roy Choudhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Sarker, Rai Bahadur Rabati Mohan.
Sen, Rai Sahib Akshoy Kumar.
Sen, Mr. B. R.
Shah, Maulvi Abdul Hamid.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Sommer, Mr. C. R.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Ali, Maulvi Nasser.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chowdhuri, Babu Kishori Mohan.
Choudhury, Maulvi Nural Absar.
Faziullah, Maulvi Mohammad.
Haque, Khan Bahadur Maulvi Azizul.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mukhopadhyaya, Rai Sahib Surat Chandra.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Rai Mahasai, Manindra Deb.
Ray, Mr. Shanti Shekhareswar.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Singh, Srijut Taj Bahadur.

The "Ayes" being 56 and the "Noes" 20, the motion was carried.

Mr. W. H. THOMPSON: Mr. President, Sir, will you permit me to draw your attention and the attention of the House to the fact that during the last few minutes the bell has rung three times, and we have had three divisions which Government have ultimately won. The necessity for ringing the bell was due to the feeble shouting from the Government benches which led you to conclude that the opinion of the House was against the motion. I am not sure whether to put that

feeble shout merely to excessive old age of the members of the Government benches or to the fact that most of the Government members were not present in the Chamber. May I draw the attention of the Hon'ble Member to this and request him to see that his subordinates are present?

Mr. PRESIDENT: Anyway, I hope Mr. Thompson may, hereafter, find some improvement, as I have sent them to the lobby three times to wake them up.

(The Council was then adjourned for prayer.)

(After adjournment.)

Mr. PRESIDENT: Having regard to the decision which the House has reached in respect of amendment No. 184, the motions moved by Maulvi Abul Quasem and Maulvi Abdul Hamid Shah fail.

The motion that clause 40, as amended, and clause 41 stand part of the Bill was then put and agreed to.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that clause 42 (*d*) be omitted.

Sir, by this clause the Board is compelled to take charge of such machinery, tools, dredgers and equipment as the Local Government may make over to them free of cost. However the clause may have been worded, it refers to the making over of the famous dredgers, and this proposal is based on the recommendation of the Hopkyns Committee. In order to enable the Council to judge of this recommendation, I will just place some portion of the Report before the Council. After making that recommendation, they say on pages 26-27 of their Report:—

"This arrangement may at first sight appear to be unduly favourable to the Trust, but we do not consider this to be the case. If the service of the loans for the dredgers is taken into consideration, the average annual loss on navigation....."

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: What is the paragraph number?

Dr. NARESH CHANDRA SEN GUPTA: I thought the Hon'ble Member was more familiar with this Report—paragraph 132. "..... works is about Rs. 15 lakhs and to this extent under the principle which we have enunciated, the Trust is entitled to a grant from Government. With Rs. 10 lakhs a year available for loan service, the Trust could afford to purchase new dredgers to replace the five which it is proposed to transfer to them, the cost of such vessels having fallen considerably since the *Cowley* and *Ronaldshay* were purchased.

Indeed, from the Trust's point of view, this arrangement would be preferable, as the *Cowley* and *Ronaldshay* are larger than is necessary for the work at present required and could well be replaced by somewhat less powerful machines. This would leave the Government with the existing dredgers on their hands and with responsibility for continuing to pay interest and to repay the balance of the principal at charge. As the dredgers would probably prove unsaleable, the alternative which we have mentioned is clearly the better for Government. It is in accordance with our original proposition that all income derived from new sources of revenue should be available for extensions of the work at present undertaken." Sir, that is all the reason for which the Hopkyns Committee recommends that these dredgers should be made over to the Board, not that the Board has any particular use for them so far as the *Cowley* and *Ronaldshay* are concerned. On the contrary, the Board possibly has no use for them. It would be advisable and preferable for Government to sell these two dredgers, but still they must make them over to the Board, and why? Because they are going to give them gratis. Sir, this charity of the two dredgers is not such a simple thing as it looks. We all know the cost of maintaining these two dredgers and also their absolute inutility from the point of view of the Board. Nevertheless, so soon as the Government chooses to say "you take these two dredgers," the Board will have to take them under this clause. I submit, Sir, that the Hopkyns Committee has made out no ground whatsoever for compelling the Board to take these dredgers over. If this clause were not there, even then Government might negotiate with the Board with a view to make over such of the dredgers and other tools and machinery as the Board might find useful for them and the terms may be settled by negotiation with Government. But Government is not prepared to wait for that negotiation; they are in a hurry to get rid of these burdensome dredgers and throw them off their shoulders and advantage is taken by Government of the opportunity given by the creation of this Board to tie their hands for ever with regard to this matter: the Board cannot say "no," if the Government say that we won't give you anything else but these dredgers free of cost. You saddle the Board with the cost of maintenance of these dredgers without any prospects of selling them if they prove unworkable. The reasonable arrangement would be to constitute the Board first of all and let them think out how far they will go in the matter of taking over the plant and machinery. The reason for this course of compelling the Board to take over the tools, etc., is difficult to imagine, unless it is to be supposed that the whole purpose of the Bill is not to develop the navigable channels of the country, but simply to get rid of this obnoxius burden—the dredgers.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Although I have not moved my previous amendment, which has been moved by Dr. Sen

Gupta, I wish to move the next one which stands in my name, namely, that for the word "shall" the word "may" be substituted, etc. It is on the same lines as the previous amendment but I have modified it somewhat.

Khan Bahadur Maulvi AZIZUL HAQUE: The next amendment stands in my name and I submit that that amendment also may be taken together with the Khan Bahadur Momin's amendment.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: That is a little different from Khan Bahadur Momin's amendment.

Mr. PRESIDENT: I think only 205 may be moved at this stage.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I beg to move that in clause 42 (*1*), in line 1, for the word "shall" the word "may" be substituted and in lines 4 to 6, for the words "subject to such restrictions as regards sale or disposal thereof as may be determined by the Local Government" the words "on such terms and conditions as may be arranged between the Local Government and the Board in this behalf" be substituted.

Dr. Naresh Chandra Sen Gupta has already explained to you the inequity of the arrangement which is contemplated in clause 42. What that clause contemplates is that the Government, if they choose, may make over any dredgers or any instrument or machinery, etc., to the Board, and the Board will have no option to refuse such a gift, but shall have to accept all these dredgers and in return they will have to maintain, repair and do everything else in connection with them at their own cost; they will not have any authority to dispose of them or to sell them! I do not think, Sir, anybody has ever heard of a gift like this, where all the power is kept in the hands of the giver and no option is left with the receiver thereof. If this clause of the Bill is insisted on, people may be excused for assuming that the whole intention of Government in framing this Bill is only to get rid of these two dredgers, which have been a sort of white elephant to Government, because here they will compel the Board to maintain these dredgers and for their maintenance the amount of money that Government is proposing to give to the Board in another clause is about Rs. 2,21,000, which will be required entirely for the maintenance of the two dredgers. At first I wanted that the whole clause may be omitted, but I was told that there should be some such statutory provision by which it may be permissible to the Board to take over dredgers and other things made over by Government. That being so, the amendment which I have just moved provides that the Board "may" take over but not "shall" take over and also it shall do it under conditions which may be determined

between the Board and the Local Government subject to such restrictions as regards disposal or sale thereof as may be determined by the Local Government on such terms and conditions as may be arranged between the Local Government and the Board in this behalf. It is only fair that, when a man makes a gift to me and I am willing to accept that gift, there should be some arrangement as regards who is going to maintain that gift and in what way it may be disposed of. If the arrangement is not favourable or if I do not like the gift, why should I be compelled to take it? It is not fair that the Board if they do not consider the *Cowley* and *Ronaldshay* of any use to them, should still be compelled to take them. It is like giving me a white elephant, compelling me to keep and feed it and then to keep it in a show-case. It is a thing which is absolutely inequitable and cannot be supported. I, therefore, move this motion.

Khan Bahadur Maulvi AZIZUL HAQUE: I beg to move that in clause 42 (*1*), in lines 6 to 8, for the words beginning with "Local Government" and ending with "working the same," the following be substituted, namely:—

"Local Government and subject to such financial arrangements as may be made between the Board and the Local Government as regards maintaining, repairing the same. The Board shall thereupon bear all necessary expenses in maintaining, repairing, altering, improving or working the same."

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: To shorten the discussion I may say that I am prepared to accept this particular amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: I may say that my amendment virtually is the same, but I should like to make my position clear. There have been two amendments moved and to avoid misunderstanding I am to explain that if you give power to the Board to refuse or accept these dredgers, then one of the purposes for which this Board has been created fails. I am also to explain that one of the main objects which the Agricultural Commission visualises is that there should be entire separation of navigation as well as irrigation. Now thereafter the Hopkyns Committee was appointed and they also accepted that recommendation and made a detailed suggestion that navigation should altogether be separated. Let us visualise that these dredgers are not given by the Government as Khan Bahadur M. A. Momin and Dr. Sen Gupta surmise. Then what would be the position? The Government will have to maintain certain staff as also the Board will have to carry on navigation. Naturally there will be absolutely no restriction as to what was contemplated by the Board as well as the Hopkyns Committee Report. What I feel is that the

language of the section is 'subject to such restrictions as regards sale or disposal thereof as may be determined by the Local Government." If that language remains, the Board will not have power to sell or dispose subject to any restriction as the Government might choose to impose. But if my amendment is accepted, the Board will have the power to sell subject only to such restriction as the Local Government might choose to impose and the Board will have to accept this, and I think that it is a necessary evil in these circumstances. In the present case, if there were no dredger such as *Ronaldshay* and *Cooley*, and if the Bengal Government was not saddled with them, then I understand these powers should remain. It is, I feel, not an immediate evil, but it is an evil. It is therefore better in the present state of affairs to have dual control between the Government and the Board as regards navigation, which leaves open to the Board, accept such financial assistance, as to make it liable for any extra cost.

Dr. NARESH CHANDRA SEN GUPTA: My submission is that this amendment carries us no further than the clause in the Bill itself. Instead of saying "subject to such restrictions as regards sale or disposal thereof as may be determined by the Local Government," we wish to have "subject to such financial arrangements as may be made between the Board and the Local Government....." It does not visualise what would happen if the Government and the Board fail to come to any agreement. The Board shall then have to take, they shall be forced to take, charge of the dredgers and it is bound to take charge subject to the restriction as regards sale or disposal. The Board shall take charge, but shall not be bound to maintain and repair unless a satisfactory arrangement is made by the Government. My friend Khan Bahadur Azizul Haque suggests that unless this clause remains, one of the main purposes of the Bill will fail. I am sure he is right, because the main purpose of the Bill is to get rid of this old man of the sea from the shoulders of the Hon'ble Mr. Sindbad. Besides the Khan Bahadur thinks that it would be a great evil because Government will have to maintain a staff for navigation purposes. I am afraid the Khan Bahadur has not read the Bill with the care which we usually associate with him because, if you look at sub-section (2), you will find: "The Local Government may, by notification, declare which of the navigable channels other than canals as defined in the Bengal Irrigation Act, 1876, etc., shall for the purposes of the Act be maintained, controlled and administered by the Board." The Government may choose to declare that only Padma and Jamuna and the channels leading from Calcutta to the Padma should be handed over to the Board, and I should not be surprised if this was the first thing done by the Government. If they do that, the Government will still be responsible for a certain amount of navigation. As far as the Calcutta port is concerned, no doubt the Board will not be responsible. But the

proviso to the section says that not only the rivers but all navigable rivers leading to the Port of Calcutta will be outside the scope of the Board. Well, it follows that a number of channels and rivers will have to be under the charge of Government and Government will have to maintain a staff for the purposes of taking charge of these. Both the arguments of the Khan Bahadur fail, and it would serve no useful purpose except creating a deadlock by which the dredgers will have to be taken over by the Board, but no arrangement made for their maintenance.

The Hon'ble Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: As a matter of rule, I said in the early part of the debate that in case of those hon'ble members who would kindly move their amendments with brevity, I should be willing to accept those amendments. The Khan Bahadur has not exercised brevity, but I make an exception in this case and shall accept the amendment. The hon'ble doctor is wrong in charging the Khan Bahadur with not reading into the clause the various explanations put forth by him. I do not wonder. The Khan Bahadur is neither an eminent jurist like him, nor a philosopher, and I say that he is not able to read in all these various amendments other than what is really plain and broad English. It must be that the doctor forgets that the Hopkyns Committee began with the very paragraph, a part of which he read but took great care to omit that where they said that "An important item of the expenditure now incurred, which has been excluded from the figures previously quoted, is the service of the loans raised for the purchase of the two dredgers *Ronaldshay* and *Cowley* amounting to about Rs. 10½ lakhs *per annum*. This should continue to be borne by the Local Government. The dredgers in question, together with the *Foyers*, *Alexandra* and *Burdwan* should be made over to the Trust free, but rather than that the loan should also be transferred with a grant to enable it to be defrayed, we consider that it will be preferable for the Local Government to continue to accept responsibility for it. This arrangement may at first sight appear to be unduly favourable to the Trust, but we do not consider this to be the case." Therefore the Expert Committee thought that this arrangement really was unduly favourable to the Trust, but they explained that it would not be unduly favourable either to the Trust or the Government, but they adopted something in the nature of a *via media* and compromise between the Board and the Government. Furthermore, the doctor as a member whose heart bleeds when he talks of the people of the country and tax-payers, has not realised, that it will relieve the tax-payers of the great burden which the Government will continue to shoulder, which is, that the Board will all the time have the use of the dredgers. Now the dredgers have been called famous; their fame apparently has not reached the doctor as yet, because he must realise now that the object with which this

Fund is created is mainly to improve navigation. That connotes the use of dredgers as something that is essential and we cannot do without the dredgers. If they remain unemployed as they have been, there is something to be said, but now the machinery that has been created will be able to employ these dredgers. The dredgers form an important part of the machinery. Therefore, it is not correct to say that no dredgers are necessary. On the contrary, they are most necessary. He has failed to realise that there is nothing in the Bill which prevents their sale by the Board. Nothing of the kind. This point has been explained by the Khan Bahadur and there is nothing in the clause read or in the Bill which empowers the Board to effect a sale. Furthermore, at the time of retrenchment, there was every intention on the part of Government to effect the sale of some of these dredgers and correspondence as regards the sale is still going on and is likely to give good results within a short time. In spite of hearing all that, I wonder how he made a statement of the kind which he has made. The amendment, which is proposed by the Khan Bahadur, is, I think, eminently reasonable and fair to both parties—the Government and the Board. I think it is an improvement on what was decided upon by the Select Committee and, therefore, in order to make it perfectly clear, both as regards Government and the Board, I should accept this amendment and thereby improve what might have been somewhat ambiguous as regards relations between the Board and the Government with regard to the dredgers. I, therefore, oppose the amendments moved by Dr. Sen Gupta and Khan Bahadur M. A. Momin and accept the amendment moved by Khan Bahadur Azizul Haque.

Dr. Naresh Chandra Sen Gupta's motion that clause 42, sub-section (*1*), be omitted was put and lost.

Khan Bahadur Maulvi AZIZUL HAQUE: On a point of procedure. Would it not be better if clause 205 were divided into two parts? The first part is the substitution of the word "may" for "shall" and the other part is an integral part of the amendment. If these two are separated, it would be better.

Mr. PRESIDENT: For what reasons?

Khan Bahadur MUHAMMAD ABDUL MOMIN: Because the real point in this clause may not be obligatory, but should be optional, and if the word "shall" is substituted for "may," then there are many who would probably agree that the word "may" may not agree with the other portion about arrangements, and so forth.

Mr. PRESIDENT: And you think that the two parts are independent of each other and in any case not insuperably connected?

The Hon'ble Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I don't mind the division into two. I would point out that the second part seems all right. I oppose the first part.

Mr. PRESIDENT: Generally in a matter like this we leave it to the discretion of the mover of the amendment, unless of course there are serious objections, and I am convinced that in the present case there is no objection to doing this, because the two parts are quite independent of each other.

Khan Bahadur Muhammad Abdul Momin's motion was then divided into two parts as follows:—

The motion that in clause 42 (*1*), in line 1, for the word "shall" the word "may" be substituted being put a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.	Hossain, Maulvi Muhammad.
Ali, Maulvi Syed Nausher.	Khan, Khan Bahadur Maulvi Muazzam Ali.
Armstrong, Mr. W. L.	Khan, Maulvi Tamizuddin.
Baksh, Maulvi Syed Majid.	Miller, Mr. C. C.
Birkmyre, Mr. H.	Momin, Khan Bahadur Muhammad Abdul.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.	Mukhopadhyaya, Rai Sahib Surat Chandra.
Chaudhuri, Babu Kishori Mohan.	Nicholl, Mr. C. K.
Chaudhuri, Maulvi Syed Osman Haider.	Quasem, Maulvi Abul.
Chowdhury, Maulvi Abdul Ghani.	Rahman, Mr. A. F. M. Abdur-.
Choudhury, Maulvi Nurul Absar.	Rahman, Maulvi Azizur.
Dain, Mr. G. R.	Ray, Babu Khetter Mohan.
Fazlullah, Maulvi Muhammad.	Sen Gupta, Dr. Naresh Chandra.
Hakim, Maulvi Abdul.	Shah, Maulvi Abdul Hamid.
Hoque, Khan Bahadur Maulvi Azizul.	Singh, Srijut Taj Bahadur.
Hoque, Nazi Emdadul.	Sumner, Mr. C. R.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.	Hooper, Mr. G. C.
Bal, Babu Lalit Kumar.	Hosain, Nawab Musharraf, Khan Bahadur.
Banerji, Rai Bahadur Satindra Nath.	Hussain, Maulvi Latafat.
Bashir Uddin, Khan Sahib Maulvi Muhammad.	Khan, Mr. Razaur Rahman.
Bose, Mr. S. M.	Mitter, Mr. S. C.
Bottomley, Mr. J. M.	Nazimuddin, the Hon'ble Mr. Khwaja.
Cohen, Mr. D. J.	Raheem, Mr. A.
Dutt, Mr. G. S.	Roy Chowdhury, Mr. K. C.
Edgley, Mr. R. G. A.	Reid, the Hon'ble Mr. R. N.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.	Roy, the Hon'ble Sir Bijoy Prasad Singh.
Fawcus, Mr. L. R.	Roy, Mr. S. N.
Ghose, the Hon'ble Sir Charu Chunder.	Roy Choudhuri, Babu Nem Chandra.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur, Sir Abdelkerim, of Dilduar.	Sadullah, Maulvi Mohammad.
Gilchrist, Mr. R. N.	Sahana, Babu Satya Kinkar.
Gladding, Mr. B.	Sarkar, Rai Bahadur Rebati Mohan.
Guha, Mr. N. N.	Sen, Rai Sahib Akshoy Kumar.
Hogg, Mr. G. P.	Sen, Mr. S. N.
	Townend, Mr. H. F. V.
	Wilkinson, Mr. H. R.
	Woodhead, the Hon'ble Mr. J. A.

The "Ayes" being 30 and the "Noes" 37, the motion was lost.

The motion that in clause 42 (*1*), in lines 4 to 6, for the words "subject to such restrictions as regards sale or disposal thereof as may be determined by the Local Government" the words " on such terms

such conditions as may be arranged between the Local Government and the Board in this behalf" be substituted was put and lost.

Khan Bahadur Maulvi Azizul Haque's motion was then put and agreed to.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I beg to move that for the proviso to clause 42 (2), the following proviso be substituted, namely:—

"Provided that no navigable channel within such limits as may have been declared under the Indian Ports Act, 1908, to be the limits of the ports of Calcutta and Chittagong, and of the navigable rivers and channels leading to the said ports shall be placed under the control and administration of the Board."

Sir, I shall be very brief because I think this is more or less self-explanatory. There is already an Act, I mean the Indian Ports Act of 1908, and such being the case we cannot ask the Port Commissioners to hand over their job to this Trust. Therefore, that must be excluded and for that reason this amendment has been put in to make the position clear.

Khan Bahadur Maulvi AZIZUL HAQUE: May I ask a question of the Hon'ble Member? I find that he has drafted that "provided that no navigable channel as may have been declared under the Indian Ports Act" shall be placed under the Board. The difficulty comes in when he puts in the words "and of the navigable rivers and channels leading to the said ports." Such navigable rivers and channels may be the Hooghly, Churni, Mathabhanga and many other channels. Is it contemplated that these will be out of the jurisdiction of the Board so far as their control is concerned?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: The Khan Bahadur will be easily satisfied if I tell him that the intention is nothing of the kind. If he had read the Act carefully and ascertained the facts, he would not have had to take the trouble to put this question to me. The actual position is this: We have navigable rivers and channels leading to the said ports, certain portions of which are within the limits of the waterways under that Act. The words are quite clear: "Provided that no navigable channel within such limits as may have been declared under the Indian Ports Act, 1908, to be the limits of the ports of Calcutta and Chittagong, and of the navigable rivers and channels leading to the said ports shall be placed under the control and administration of the Board." The words "such limits" cover navigable rivers. I submit this is quite clear.

Khan Bahadur Maulvi AZIZUL HAQUE: Since the Hon'ble Member's intention is not to bring in those portions, would it not be

possible for the Legislative Department to put the matter in a way in which it may be quite intelligible?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: At first when I read it myself I thought that I had better consult the Legislative Department, and I actually consulted them. They said it was quite all right. I asked them if it could be made clearer, but they said it was all right.

Khan Bahadur Maulvi AZIZUL HAQUE: I submit that it should be provided that the Local Government shall have the right to declare that any navigable channel is within such limits as may have been declared under the Indian Ports Act, 1908, to be the limits of the ports of Calcutta and Chittagong. I think the power of the Local Government should be put in the section itself so that there may not be any difficulty of interpretation.

Dr. NARESH CHANDRA SEN GUPTA: Sir, may I move a short notice amendment to make the meaning quite clear. I take it to mean that navigable rivers or channels which fall into the river Hooghly are to be excluded. If that is so, the addition of the following words after the words "said ports" will serve the purpose: "the mouths of which fall within the area of those ports." I think that will make the meaning quite clear.

Mr. R. H. GILCHRIST: Sir, may I point out that these words are taken from the Indian Ports Act and the declaration is made under the Indian Ports Act. Therefore, the course suggested by Dr. Naresh Chandra Sen Gupta is impossible.

Khan Bahadur Maulvi AZIZUL HAQUE: Under this section you are leaving no scope to the Government——

Mr. R. N. GILCHRIST: "Navigable rivers and channels leading to the said ports" are the words of the Indian Ports Act. It is only those areas that are declared to be within such limits that we are concerned with.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, the explanation given by the Government member has made the point clear to me at last.

The Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim Ghuznavi's motion was then put and agreed to.

Mr. PRESIDENT: The next amendment fails.

Maulvi SYED MAJID BAKSH: Sir, I may say at the outset that if I had been allowed to speak on the previous amendment——

Mr. PRESIDENT: That is a different matter altogether. You cannot move your amendment No. 211 as it is covered by the decision taken by the House in respect of the previous one.

Maulvi SYED MAJID BAKSH: I admit, Sir, if the amendment which I am going to move is carried, the previous amendment falls through.

Mr. PRESIDENT: The point is that you cannot omit certain words from the amendment which has already been carried.

Maulvi SYED MAJID BAKSH: I am going to omit certain words.

Mr. PRESIDENT: How can you do that when those words have already been accepted by the House.

Maulvi SYED MAJID BAKSH: Sir, I have not been able to make myself clear up to this time just as it happened the other day. A substantive portion of the section contains the words "navigable rivers and channels lead to the said port" and the amendment also contains the same words.

Mr. PRESIDENT: Any way, your proposal is to take out certain words which the House has already accepted. I cannot allow you to do that.

Maulvi SYED MAJID BAKSH: I gave notice of an amendment and I have not yet been allowed to move it just like the other day.

Mr. PRESIDENT: What do you mean by other day?

I do not think it is any good referring to what happened on a previous occasion. When the House has accepted the amendment, you cannot take out words from it to nullify the whole or any part of that decision.

Maulvi SYED MAJID BAKSH: I am only asking for some opinion from you. It is this, that since amendment No. 210 is going to cover amendment No. 211, is it not my privilege to move that amendment first and then to have a discussion?

Mr. PRESIDENT: Certainly not. The House has already accepted amendment No. 210 with their eyes open. I rule that amendment No. 211 fails.

The motion that clause 42, as amended, stand part of the Bill was put and agreed to.

4

Clause 43.

Khan Bahadur Maulvi AZIZUL HAQUE: I beg to move that in clause 43 (*a*), in line 7, for the word "navigation," the words "this Act" be substituted.

With your permission, Sir, I also move that in clause 43 (*b*), in line 1, for the word "navigation," the words "this Act" be substituted.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I accept both the amendments.

The motions were then put and agreed to.

Maulvi ABUL QUASEM: I beg to move that after the proviso to clause 43 (*a*), the following proviso be added, viz.:—

"Provided further that an appeal shall lie to the Commissioner from a decision of the Collector on the question of compensation within sixty days from the date thereof and subject to the result of such appeal the decision of the Collector shall be final."

Sir, the object I have in view in moving this amendment is quite clear from the language of the proviso I have put forward. The Collector will arbitrate between a local body or a person and the Waterways Board, but no appeal is provided in this connection. My object is that provision should be made for an appeal from the decision of the Collector and that that appeal should be taken to and heard by the Commissioner who is a much senior and experienced officer. In this way the party affected and the Waterways Board will have justice done between them. It may be that Government thinks that an appeal will lie to the Civil Court, but I think, Sir, that we should avoid the possibility of protracted litigation in Civil Courts and we should adopt this simpler method which will cause no hardship to anybody and will also put a finality to these proceedings in connection with such compensation as is provided for in this clause.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I accept the amendment.

The motion was put and agreed to.

Maulvi ABUL QUASEM: I beg to move that to clause 43(*b*)(*i*), after the word "channels," the words "and reclaim and resuscitate old ones" be added.

Sir, the language of the clause is that the Board may for the purpose of navigation make and open new navigable channels. We all

know, Sir, that there are channels which are dead or in a dying condition. It is desirable that the Waterways Board should also deal with such channels while making new navigable channels in places where no channel existed previously. My object is that old channels may also be taken up by the Board for the purpose of resuscitating them. I think I am asking for nothing that is not intended. It is simply clarifying what the Government intends should be done under the proposed section.

Mr. L. R. FAWCUS: As far as I can see, the purpose of the mover is served by sub-section (*b*)(*iii*) of section 43, which says that the Board may clear, widen, deepen or otherwise improve the existing channels which are under the control and administration of the Board. That surely includes what the mover wants.

The motion was then put and lost.

Babu KHETTER MOHAN RAY: I beg to move that in clause 43(*b*)(*iii*), in line 1, after the word "deepen," the word "divert" be inserted.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: I accept the amendment.

The motion was then put and agreed to.

Babu KHETTER MOHAN RAY: I beg to move that to clause 43(*b*)(*iii*) the words "and remove obstructions, in any such channels" be added.

I have moved this amendment because there is no provision in the Bill by which the Board is empowered to remove any obstruction which may be in any such channels.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dildhar: I oppose the amendment, because I think the words "clear, widen, deepen or otherwise improve" which are already in the sub-clause would meet what the mover wants.

The motion was then put and lost.

Khan Bahadur Maulvi AZIZUL HAQUE: I beg to move that in clause 43(*b*)(*vi*), in line 3, at the end, the following be added, namely:—

"or for improvement of waterways."

I simply formally move this amendment for the sake of brevity as hinted at by the Hon'ble Member.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I accept the amendment.

The motion was then put and agreed to.

The motion that clause 43, as amended, stand part of the Bill was then put and agreed to.

Clause 44.

Khan Bahadur Maulvi AZIZUL HAQUE: I beg to move that in clause 44, line 5, the words "other than navigation" be omitted, and I do it for this purpose, namely, that the Local Government should have some reserve of residual power if it chooses to exercise it, with a view to take up channels if it is necessary for the purpose of navigation. As it is, it will restrict the right of the Local Government to take up any channel for the purpose of navigation. I therefore think that this amendment should give certain powers to the Local Government on occasions and in contingencies which may not be foreseen to-day, by which it may be possible for the Local Government to take up the improvement of water channels, if they think necessary.

Mr. W. H. THOMPSON: I oppose the amendment, Sir, as being contrary to the spirit of the Bill, as contrary to the ideas expressed on behalf of the Government by the Hon'ble Member when he asked that the Bill be taken into consideration, and as contrary to the Bill as accepted by the House before it went to the Select Committee. I look upon this amendment as a serious matter, an insidious change to be introduced at this stage to alter the whole aspect of the Bill and make it possible to apply it to waterways which are not for purposes of navigation at all or to improve them otherwise than for the purpose of navigation; in fact, for any purpose which a district board might propose. I strongly oppose this amendment and protest against the insidious way in which it has been put forward.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the hon'ble member please explain where the insidiousness comes in?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I find myself on this occasion in complete agreement with Mr. Thompson. I think he has explained the position quite correctly, but he has left something untold and unexplained and it is this: not only does the amendment go against the spirit of the Bill, but it also goes somewhat further than what the mover has said. It actually defeats the purpose of the Bill in this sense,

that it gives power to the Local Government to take away every navigable channel. This would frustrate the object of the Bill altogether. That is not the intention for which the Board is being constituted. I, therefore, oppose the amendment.

The motion was put and lost.

The motion that clauses 44, 45, 46, 47 and 48 stand part of the Bill was then put and agreed to.

Maulvi ABUL QUASEM: May I submit, Sir, certain matters for your consideration before I move my amendment? I have given notice of a number of amendments, but some of these go together. If they are moved separately, they will not have the effect that they will have if they are taken together. Such motions are Nos. 233, 234 and 267. These three, if taken together, will explain what is passing in my mind in reference to the constitution of district committees.

Mr. PRESIDENT: I can do no more than allow you to move motions 233 and 234 and make one speech on them.

Maulvi ABUL QUASEM: Sir, I beg to move that for clause 49A(*a*) the following be substituted, namely:—

"(*a*) The chairman of the district board, *ex-officio*,"

and that for clause 49A (*b*) the following be substituted, namely:—

"(*b*) the District Magistrate or an officer appointed under section 49B"

Sir, I want the chairman of the district board put first and the District Magistrate put next to him in the list. The Select Committee has added this chapter to this Bill, and it was not in the original Bill. This Bill to a good many members of this House is an unsatisfactory Bill, and, if I may say so, with due respect for the Hon'ble Member in charge of the Bill, I would say that this constitution of district committees as recommended by the Select Committee is one of the most unsatisfactory features of the Bill. Though the election of the chairman is left to the committee, yet since the District Magistrate is going to be a member *ex-officio* and since his name has been put first one can hardly be blamed if one thinks that the obvious expectation is that the District Magistrate will be elected chairman of the district committee. That, Sir, is a retrograde policy. The policy of Government in recent times has been consistently this: that so far as possible in all committees which are formed for the purpose of advising Government the non-official element should predominate and that they should have a predominantly non-official character about them. When the name of the District Magistrate has been put

first and when it is very likely that the District Magistrate is going to be elected chairman of the district committee, you will take away from the purely advisory district committee the non-official character which I think should attach to it. The district board chairman should for very cogent reasons be the chairman *ex-officio* of this body. Sir, under section 89, I believe, of the Bengal Local Self-Government Act all streams, channels and water-courses are for the purposes of the Bengal Local Self-Government Act vested in the district board. It is the district board which already deals with the water-courses and channels which the Trust will be called upon to deal with in future, so that the district board is the body closely interested in improving the waterways in a district, and as the district board already deals with these waterways and channels, the chairman of the district board is the person most fitted to preside over the new district committee. I do not understand what reasons led the Select Committee to put forward such a new proposal in this Bill, and practically to suggest that the District Magistrate should be the chairman of the district committee. Because I feel that the chairman of the district board should be the chairman of the committee I suggest that the name of the chairman of the district board should be put first and that of the District Magistrate next. I have also suggested another amendment, but as I may not speak on that, I may say now that in that amendment I have suggested that the District Magistrate may himself be a member of the district committee and that if he chooses he may nominate somebody else to represent him on that body, just as in the case of the Chairman of the Port Commissioners of Calcutta who has been allowed to nominate a member, to represent him on the Waterways Board. These are the reasons, Sir, why I move these two amendments.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: It is abundantly clear from the Maulvi Sahib's speech that he has not studied the Bill properly; for if he had done so, he would have seen that his purpose would be served by clause 49(*h*) of the Bill. I therefore oppose the amendment.

Maulvi Abul Quasem's motions were put and lost.

Maulvi ABUL QUASEM: I beg to move that clause 49A(*c*) be omitted.

Sir, of the district committee the chairman of the district board will be an *ex-officio* member and by sub-clause (*f*) of clause 49A four members are going to be elected by the district board. Sir, the district board has got many sub-committees of its own and of none of these committees any paid employee of the district board is a member, and I feel that in respect of the district committee also the same

policy should be followed. The District Engineer should be secretary of the district committee, *ex-officio* but, as I have suggested by another amendment, he should not be a member of the committee. I am of opinion that he should not have a vote as a member of the district committee. Sir, it is a question of principle. Members of this House will remember that when the Bengal Local Self-Government (Amendment) Bill was passing through this Council, an attempt was made to get the Health Officer to be a member of the Public Health Committee which was going to be created by the new amending Bill. It was lucidly explained by the Hon'ble Minister in charge of the Bill how no paid employee either of a district board or of the Calcutta Corporation was a member of any of the sub-committees of those bodies, their opinion being always available to a sub-committee on any project which was under their consideration. Only not being members they are not allowed to vote, because in that case they would have to take sides and possibly they might have to vote in a manner quite contrary to that of other members of the district board. That would give rise to a very unfortunate and unsatisfactory situation. That is why I have suggested that the District Engineer should be made *ex-officio* Secretary of the district committee, and he would thus be in a position to advise on any project on which his views might be asked for. The committee would surely consider his views very carefully and he would be of great service to it without being a member. I submit, Sir, that having regard to established policy and practice he should not be made a member with a right to cast a vote one way or the other. That is why I move this amendment.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: Sir, I oppose the amendment.

The motion was put and lost.

The Council was then adjourned for prayer.

(After adjournment.)

Mr. SARAT KUMAR ROY: I beg to move that in clause 49A(*e*) in the last line, after the words "Local Government," the words "of whom at least one shall be a landholder" be inserted.

Sir, in the motion No. 39 for amendment of clause 5 of the Bill, I have already discussed in detail the reasons for providing adequate representation of the landholding community on the Board. And, Sir, the same reasons also apply for providing representation of the landholding community in the district committees as well. Perhaps the necessity here is even greater. It may be argued that they may come there from the general constituencies. But here various difficulties arise, as it is a well-known fact that due to the vehemence with

which democracy is being preached broadcast nowadays, proprietary interests in the district often find it difficult to secure elections in local bodies such as the district boards of Bengal. Though much may be said against my statement, the fact remains that they do not find such support; and it is therefore necessary that some special provision should be made in the Act for them.

For this reason I urge that having regard to the importance of their interests at stake, they may be given at least one seat in the district committees.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: I oppose this amendment on the same ground as several other amendments moved by several members.

The motion was put and lost.

Maulvi ABDUL HAMID SHAH: I beg to move that in clause 49A, for sub-clause (*f*), the following sub-clause shall be substituted, namely:—

"(*f*) two members to be elected by the district board."

The member spoke in vernacular in support of his motion of which the following is a translation:—

Mr. President, Sir, the proposal, which has been embodied in the sub-clause 49(*a*)(*f*) of the Waterways Bill, empowering the district boards of Bengal to elect four representatives to the District Waterways Board (*sic.*) has two aspects. Firstly, the district boards will elect two representatives from among their own members and then they will proceed to elect the other two from among the members of the union boards in their respective districts. The number of union boards in each district is not very small and I think it more reasonable that the task of electing representatives to the Board (*sic.*) in question should be left to the members of the union boards themselves. For, the union boards may have members very competent but having no connection or acquaintance with the members of the district boards. And I also consider it contrary to the principles of self-government to allow the members of one institution to elect representatives from among the members of another institution which is practically independent of it. There is another defect in the said sub-clause of the Bill. It is that the representatives to the Board (*sic.*) in question will be elected from among the members of the union boards only. But there are many police-stations in Bengal where no union board has as yet been set up and where the union committee functions in its place. In these circumstances, provision should also be made for the election of representatives from among the members of the union committees as well. I also move the amendment to motion No. 251 in this connection.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I oppose the amendment.

The motion was put and lost.

Maulvi ABUL QUASEM: I beg to move that in clause 49A(*f*), line 1, after the word "elected" the words "in the manner prescribed by rules made under section 119" be inserted.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: To shorten the discussion I accept this amendment.

The motion was put and agreed to.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 49A(*f*), in line 2, for the words "shall be members of" the words "shall have residences in" be substituted.

I do not wish to create an impediment in the way of the choice of the district board. Perhaps the intention of the section is that there must be men who are connected with village life and acquainted with villages. Instead of having members of the union boards, we should have two men who are residents of the villages. That will perhaps make my point clear. I presume that may be the intention of Government, and I hope my amendment will be accepted.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I oppose the amendment.

The motion was put and lost.

Mr. L. R. FAWCUS: I beg to move that in sub-clause (*f*) of clause 49A, in lines 2 and 3, for the words "the union boards in the district," the words "union boards in the district" be substituted.

The proposal is to omit the word "the" before the words "union boards in the district," as the retention of it would strictly mean that the two representatives should be members of all the union boards in the district, a manifest impossibility. It is only a question of grammar.

The motion was put and agreed to.

Maulvi ABUL QUASEM: I beg to move that in clause 49A(*f*), line 3, after the word "district," the words "who are not members of the district board" be inserted.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I accept the amendment.

The motion was put and agreed to.

Babu AMULYADHAN RAY: I formally move that after clause 49A(*g*), the following clause be added, namely:—

"(*h*) Members of the Bengal Legislative Council of the district."

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: I formally oppose the amendment.

The motion was then put and lost.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I beg to move that after clause 49A, the following be added, namely:—

"Provided that the Local Government shall have power to increase the number of municipal representatives not exceeding three."

Sir, I move it with very much regret for the simple reason that Government, it seems to me, has been accepting some of these amendments which were fully discussed in the Select Committee without assigning any reason in this House. Sir, the net result of what has been accepted in this House has been, in some places, to nullify the object with which this Bill was thought of. I move it for the reason that the Local Government should have power to increase the number of municipal representation to not exceeding three. In this connection may I say that Government has just now accepted the amendment of my friend in which it has been suggested that the two union board members shall not be members of the district board. I do not know what is meant by that. Is it that of the four members to be elected by the district board two shall be members of union boards who are not members of the district board? (A VOICE: "Yes."). In that case it is all right.

Mr. W. H. THOMPSON: Sir, I beg to formally oppose this motion, my idea being that municipal representation is not really required at all. These committees are to deal with wide problems—navigation interests in rural areas—with which the people of the rural areas and the users of waterways are mainly concerned. It is not at all a matter for the municipalities.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: Sir, I accept this for the reason, as has been said by the Khan Bahadur, that there are municipalities which are riparian and which must be reasonably represented, although I do not agree with some of the remarks of the Khan Bahadur, which were conceived without understanding the reason of Government for accepting the previous amendment. It was not the intention of Government that the two union board members elected by the district board must themselves be members of the district board.

Maulvi TAMIZUDDIN KHAN: Sir, I also oppose this amendment on the ground adduced by Mr. Thompson. It appears that one member from the riparian municipalities should be sufficient as has been proposed in this Bill. It is absolutely unreasonable why municipal representation should be increased as proposed by the Khan Bahadur. It would be giving the municipalities representation quite disproportionate to their importance so far as these district committees are concerned.

Mr. NARENDRA KUMAR BASU: I think the principle on which the Khan Bahadur is moving this amendment is all to the good, because there are several riparian districts in which the municipalities will not be represented otherwise. But as a matter of fact if this amendment is accepted, it will be meaningless. He says "provided that the Local Government shall have power to increase the number of municipal representatives not exceeding three." I do not know what that means. In my reading of the sentence, it is not English. Of course, I do not claim any monopoly of knowledge of English, especially in this House. But I submit that Government in accepting this ungrammatical phrase has accepted something which cannot possibly have any meaning. I, therefore, submit that the amendment as it stands being meaningless ought to be opposed.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, there is a printing mistake. In my typewritten copy it reads "provided that the Local Government shall have power to increase the number of municipal representatives to a number not exceeding three."

The motion was corrected further as follows:—

"Provided that the Local Government may direct that the number of municipal representatives to be elected shall be increased from one to two or three."

The motion, as corrected, being put a division was taken with the following result:—

AYES.

Afzal Nawabzada Khwaja Muhammad, Khan Bahadur.
Banerji, Rai Bahadur Sailendra Nath.
Basu, Mr. Narendra Kumar.
Bottomley, Mr. J. M.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Maulvi Syed Osman Haider.
Dutt, Mr. S. S.
Edgley, Mr. R. G. A.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghose, the Hon'ble Sir Charu Chunder.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dhanar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Khan, Mr. Nazaer Rahman.
Martin, Mr. C. M.
Ritter, Mr. S. G.
Razimuddin, the Hon'ble Mr. Khwaja.
Quasem, Maulvi Abul.
Rahman, Mr. A. F. M. Abdur.

Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Saileswar Singh.
Roy, Mr. S. N.
Sadeduddah, Maulvi Muhammad.
Sarker, Rai Bahadur Rabati Mohan.
Sen, Mr. B. R.
Suhrawardy, Mr. H. S.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Mr. P.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Chaudhuri, Khan Bahadur Maulvi Alimozzaman.
Chowdhury, Maulvi Abdul Ghani.
Dain, Mr. G. R.
Hossain, Maulvi Muhammad.
Khan, Khan Bahadur Maulvi Mozzam Ali.
Khan, Maulvi Tamizuddin.
Miller, Mr. G. G.
Mukhopadhyaya, Rai Sahib Sarat Chandra.
Nag, Babu Suk Lal.
Nicholl, Mr. G. K.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray, Mr. Sarat Kumar.
Sahana, Babu Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Singh, Srijut Taj Bahadur.
Stevens, Mr. J. W. R.
Sumner, Mr. C. R.
Thompson, Mr. W. H.
Walker, Mr. W. A. M.

The "Ayes" being 35 and the "Noes" 27, the motion was carried.

Maulvi ABUL QUASEM: I beg to move that after clause 49A the following be inserted, namely:—

"49AA. The District Magistrate shall be a member of the district committee *ex-officio*. With the consent of the Board he may appoint another officer to perform his duties as a member of the district committee."

Sir, this amendment only seeks to follow the line which has been chalked out in the case of the Chairman of the Port Commissioners of Calcutta, who is to be one of the Trustees of the Board. The Chairman may appoint another person to represent him on the Board, if he himself cannot perform his duties as a Trustee. The District Officer is a busy officer and possibly he may not like to encumber himself with more work and may like to delegate his functions to another officer and that is why I have moved this amendment.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: Sir, this amendment is meaningless and infructuous, and I oppose it.

The motion was then put and lost.

The motion that clause 49A, as amended, stand part of the Bill was put and agreed to.

The motion that clause 49B stand part of the Bill was then put and agreed to.

The motion that clause 49C stand part of the Bill was then put and agreed to.

The motion that clause 49D stand part of the Bill was then put and agreed to.

Clause 49E.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I beg to move that in sub-clause (*b*), in line 1, of clause 49E, for the word "appointed," the word "elected" be substituted.

The motion was put and agreed to.

Maulvi ABUL QUASEM: With your permission, Sir, I would like to move amendments Nos. 261 to 263 together.

I beg to move that in clause 49E(*b*), line 2, after the word "Board" the words "or the district board" be inserted.

I also move that to clause 49E(*b*) at the end after the word "Board" the words "or the district board" be added.

I also move that in clause 49E after sub-clause (*b*), the following sub-clause be inserted, namely:—

"(*c*) if he has been absent from, or is unable to attend the meetings of the district committee for any period exceeding six consecutive months."

The first two amendments seek to insert the words "or the district board" after the word "Board." Clause 49A, sub-clause (*f*), says that four members will be elected by the district board of whom two shall be members of the union boards in the district. Now, Sir, in clause 49E (*b*), provision is made that if a person who was appointed a member of the district committee as being a member of a union board and if he is no longer a member of such union board, he shall then cease to be a member of the district committee. So, if a member was elected as being a member of the district board and if he ceases to be a member of the district board, the same principle should be followed. Therefore, I hope Government will see their way to accept this amendment.

So far as amendment No. 263 is concerned, I have only to point out that, as in the case of a Trustee as provided in clause 23(*b*), if a member of the district committee has been absent from or is unable to attend the meetings of the district committee for any period exceeding six consecutive months, his place should be declared vacant and a fresh election or appointment made in his place. This is necessary as it is desirable that if a member cannot attend the meetings of the committee for six consecutive months, he should make room for another who may be in a position to do justice to his duties as a member.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I am afraid I have to oppose all these amendments. As regards amendment No. 263, the point raised by the mover does not arise. Therefore, I must oppose all the three amendments.

Maulvi ABUL QUASEM: With your permission, Sir, may I ask the Hon'ble Member to pay his attention to clause 23(*1*)(*b*) of the Bill? He will see it laid down there that the Local Government may by notification declare that any Trustee shall cease to be a Trustee if he has been absent from or is unable to attend the meetings of the Board for any period exceeding six consecutive months. I am adopting his own language in this clause. How can he oppose my amendment I do not understand.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I am afraid I cannot follow what he means and fail to see the relevancy of the section he has referred to this clause.

Mr. PRESIDENT: Anyway, you are not convinced by his argument.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: No, I am not.

The motions were then put and lost

The motion that clause 49E, as amended, stand part of the Bill was put and agreed to.

The motion that clause 49F stand part of the Bill was put and agreed to.

The motion that clause 49G stand part of the Bill was put and agreed to.

Clause 49H.

Maulvi TAMIZUDDIN KHAN: I beg to move that for clause 49H, the following be substituted, namely:—

"49H. The chairman of the district board shall be chairman of the district committee, *ex-officio*."

Sir, I think the chairman of this committee should be a non-official gentleman and that I think is the desire of the whole House. If that is so, I think if we provide that the chairman of the district board, who will be one of the most important members of the committee, should be *ex-officio* chairman of the committee, that will be a very good provision. Otherwise, the District Magistrate being a member of the committee it will be more often than not that he will be elected chairman of the committee. That I think will not be always desirable, and therefore it is necessary that we should provide that the chairman of the district board shall be *ex-officio* chairman of the district committee.

Khan Bahadur Maulvi AZIZUL HAQUE: I beg to move that in clause 49H, in line 1, after the word "committee," the words "and the secretary of the committee" be inserted.

Sir, my object in moving this amendment is to provide that the secretary of the committee should be elected by the committee itself. The draft Bill says that the District Engineer should be the secretary of the committee, but I do not agree with that. Obviously the District Engineer shall be a very busy officer, and it may not be possible for him to devote sufficient time to the work of the committee. Also it may be that for obvious reasons the chairman may not like the District Engineer to function as the secretary of the committee, and therefore the whole work of the committee will be at a standstill. Where there is willing co-operation between the District Engineer and the chairman, there the District Engineer may be the secretary of the committee, but otherwise the work of the committee will suffer. It is for this reason that I suggest that the chairman and the secretary should be both elected by the committee itself.

Mr. L. R. FAWCUS: As regards the chairman of the district board being *ex-officio* chairman of the district committee, surely it is consistent with the idea of an autonomous committee that they should be free to elect their own chairman. Considerations as to whether he will be an official or a non-official should not weigh with them, and it might almost be characterised as in the nature of an insult to the committee to take away their power to elect their own chairman.

In regard to the question of making the secretary election, I think on reconsideration the mover of the amendment must admit that the District Engineer will be the most suitable man to be the secretary, inasmuch as he more than any other suitable member, is likely to have a working knowledge of office procedure and will therefore probably be the best man to help the committee as secretary in carrying out their work. He will be a tried and experienced servant of the district board and from his experience he should be of great help in getting through the business of the district committee in an expeditious manner. I, therefore, beg to oppose the amendment, Sir.

Mr. NARENDRA KUMAR BASU: I beg to give my support to motion No. 269 for the very reasons that Mr. Fawcus advanced in opposition to motion No. 268, that the Board being an autonomous body should have the power to elect its own chairman. I submit, Sir, that it is even more necessary that in the case of the secretary the Board should have that power, the Board being an autonomous Board. Then, again, it may be as Mr. Fawcus has said, that in very many districts the District Engineer will be a very suitable person,

but it may equally be that in some other districts the District Engineer will not be a suitable person, and it may also very well be that in one or two or three districts the District Engineer will have so much work of his own to do as District Engineer that he will not have enough time to function as Secretary of the District Irrigation Committee. I therefore submit that the reasons advanced by Mr. Fawcus for opposing this amendment No. 269 are directly contradictory to the reasons advanced by him for opposing amendment No. 268. I accordingly submit that the House will be well advised to carry this amendment, viz., No. 269.

Mr. W. H. THOMPSON: Sir, the last speaker will remember that when we were discussing this matter in the Select Committee our difficulty was in regard to the issue of notices and such other things that the district committee would have to send out for calling meetings, etc., and we were looking round for somebody who had a permanent office, who had clerks who could help in this work without any special arrangement being made for it. And we hit upon the District Engineer, who had a permanent office and whose clerks could issue notices, call meetings and so on and do the general office work of the committee. In deciding to appoint the District Engineer as the secretary of the committee we were discussing a practical question and not considering a point in the theory to local self-government.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: My friend Mr. Narendra Kumar Basu can, when he likes, be deliciously humorous, but on this occasion he has even excelled himself. As has been pointed out by Mr. Thompson, however, we should look at the thing from a practical point of view. This question was very carefully debated in the Select Committee, and there we came to the conclusion that the proper person to act as secretary to the district committee would be the District Engineer and we agreed to that proposal. Therefore, I have got to oppose the amendment.

The motion of Maulvi Tamizuddin Khan was put and lost.

The motion of Khan Bahadur Maulvi Azizul Haque was also put and lost.

Adjournment.

The Council was then adjourned till 3 p.m. on Wednesday, the 14th February, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 14th February, 1934, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 101 nominated and elected members.

Oath or affirmation.

The following member made an oath of his allegiance to the Crown:—

Mr. A. deC. Williams, I.C.S.

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

The Bengal Waterways Bill, 1934.

Mr. PRESIDENT: Now, we get back to the discussion of the Bengal Waterways Bill, 1934.

Clause 49H.

The motion that clause 49H stand part of the Bill was put and agreed to.

Clause 49-I.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I beg to move that clause 49-I be omitted. My reason is, Sir, that I consider, as I have already said yesterday, that the inclusion of this clause in the Bill would mean that in certain districts it would be disastrous to insist on

the District Engineer being made the Secretary of the committee. At the same time, if this clause is omitted it would obviate all sorts of complications. I submit, Sir, that though the last amendment, viz., No. 269, has been rejected by this House, it is quite possible for the Council to accept the present one.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: Mr. President, Sir, I beg to submit that this is more or less a consequential amendment. The question whether the District Engineer should be the Secretary of the district committee or not was discussed threadbare yesterday. I do not think I have anything more to add. Sir, I oppose the amendment.

The motion was put and lost.

The motion that clause 49-I stand part of the Bill was put and agreed to.

Clause 49J.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: Mr. President, Sir, I beg to move that for sub-clause (*f*) of clause 49J, the following sub-clause be substituted, namely:—

"(*f*) generally to assist the Board in carrying out the purposes of this Act."

Sir, this has been fully explained in the Minute of Dissent, where it has been stated that the addition means that the Board can order a district committee to do any act whatever which the Board could do itself, and that, therefore, these powers are too wide and undefined. This fact is self-evident. I commend my motion to the acceptance of the House.

The motion was put and agreed to.

The motion that clause 49J, as amended, stand part of the Bill was put and agreed to.

Clause 49K.

Kazi EMDADUL HOQUE: Sir, I beg to move that in clause 49K, in line 2, after the word "Board" the words "or of Government or any local body" be inserted.

Sir, clause 49K proposes to give travelling allowance to every member of the district committee, other than an officer or servant of the Board. I propose that this benefit of travelling allowance should be extended to servants of Government or any local body. I do not see any reason why they should be deprived of this benefit. With these words, Sir, I commend my motion to the acceptance of the House.

Mr. L. R. FAWCUS: Sir, if this amendment is carried, it would debar any servant of Government or of any local body from drawing any travelling allowance from the funds of the Trust. It is very unfair that the district boards or Government should be saddled with expenditure solely for the performance of duties of the Trust. I, therefore, oppose the amendment.

Dr. NARESH CHANDRA SEN GUPTA: Is it on the analogy of the motion which has already been carried, by which Government officers are prevented from drawing travelling allowance for attending meetings in Calcutta?

(No reply.)

The motion was put and lost.

Maulvi ABUL QUASEM: Sir, I beg to move that after clause 49K the following clause be added, namely:—

"49L. The conduct of business and proceedings of the District Committee, including the number of meetings to be held, the manner of giving notice of meetings, the fixing of a quorum, the due record of proceedings and all other necessary matters, shall be regulated by rules made under section 119."

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: Sir, I am prepared to accept this amendment on behalf of Government.

The motion was then put and agreed to.

The motion that clause 49K, as amended in the Council, and clauses 50, 51 and 52 stand part of the Bill was put and agreed to.

Clause 53.

The motion that clause 53 stand part of the Bill was put and agreed to.

Clause 54.

The motion that clause 54 stand part of the Bill was put and agreed to.

Clauses 55, 56 and 57.

The motion that clauses 55, 56 and 57 stand part of the Bill was put and agreed to.

Clause 58.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that in clause 58, in line 5, for the words "the District Committee" the words "Each such District Committee," and in the same line for the word "their" the word "its" be substituted.

Sir, I am simply moving this amendment in order to make the meaning clear.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: Sir, I accept the amendment on behalf of Government.

The motion was then put and agreed to.

Mr. PRESIDENT: So, your finger-print will be there! (Laughter.)

The motion that clause 58, as amended in the Council, stand part of the Bill was put and carried.

Clauses 59 and 60.

The motion that clauses 59 and 60 stand part of the Bill was put and agreed to.

Clause 61.

The motion that clause 61 stand part of the Bill was put and agreed to.

Clause 62.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to submit that in regard to this amendment the third paragraph has already been negatived. Therefore, Sir, I want your permission to move the amendment excluding the third paragraph, *i.e.*, I want to move the first two paragraphs.

Mr. PRESIDENT: Yes, you have my permission.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that for sub-clauses (*a*) and (*b*) of clause 62 the following shall be substituted, viz.:—

"Shall either sanction the scheme or pass such other orders as they may think fit:

Provided that in the case of any scheme estimated to cost more than five lakhs of rupees, the Local Government shall have the power to veto the scheme or require the Board to reconsider the scheme."

Sir, clause 62 provides that after the expiry of a period of two months from the date of the publication of the notification under section 61 and after considering any objections which may have been received, the Board—

(*a*) in the case of a major work estimated to cost not more than one lakh of rupees in respect of which no objection has been received from the Local Government, shall either sanction the execution of the scheme or pass such other orders as they may think fit;

(*b*) in the case of a major work estimated to cost not more than one lakh of rupees in respect of which an objection has been received from the Local Government, and in the case of a major work estimated to cost more than one lakh of rupees, shall reject or abandon the scheme or sanction the execution of the scheme after having received the approval of the Local Government.

Instead of this complicated thing, Sir, I want to provide something simpler, *viz.*, that after receiving the objections the Board shall either sanction the scheme or pass such other orders as they may think fit.

Well, Sir, I do not think I need waste the time of the Council by speaking further on this amendment.

Mr. L. R. FAWCUS: Sir, I beg to oppose the amendment, inasmuch as if it is accepted Government's control will be abrogated unless the sum involved in the estimate amounted to Rs. 5 lakhs. That,

I understand, is the gist of Dr. Sen Gupta's amendment. The safeguards in the existing clause are very salutary and in the interest of financial propriety Government cannot accept the amendment.

The motion was put and lost.

Clauses 62, 63, 64 and 65.

The motion that clauses 62, 63, 64 and 65 stand part of the Bill was put and agreed to.

Clause 66.

Mr. C. R. SUMNER: Sir, if I may have your permission to curtail the amendment which stands in my name by the deletion of the second portion, that is, I want to delete the words "and shall not impose a percentage which shall place steam vessels in a disadvantage position?

Mr. PRESIDENT: You want to omit the last two lines?

Mr. C. R. SUMNER: Yes, Sir.

Mr. PRESIDENT: Very well.

Mr. C. R. SUMNER: I beg to move that to clause 66, the following proviso be added, namely:—

"Provided that in fixing such percentage the Board shall take into consideration the existing competitive rates by rail and river routes."

This, Sir, is in view of the Hon'ble Member's assurance that if and when it is proposed to give effect to the Waterways Bill, a previous opportunity will be afforded to the Chambers of Commerce and commercial interests of consultation and recommendations as to the measures which will be necessary to work it successfully.

I wish to refer to certain views which have been expressed by my friend, Mr. S. M. Bose, both upon the floor of this House and also in his Minute of Dissent upon the Bill. Mr. Bose thinks that the freight rates at present charged by the steamer companies are high, and sees no reason why they should not be lower than the railway rates.

If, Sir, these are the views held by my friend, as a member of the Select Committee, it seems probable that many other members who had not the same opportunities on the Select Committee of acquiring first-hand information, may be under a similar misapprehension.

I would assure the members of this House, and Mr. Bose in particular, that this is by no means a matter which rests entirely with the steamer companies. In our office file there are countless instances of correspondence with the various railways concerning the rates of freight in which they write to us—"I understand your steamer rate for such and such a traffic is..... (whatever it may be). In view of this I am adjusting my railway rates (that is to say, between corresponding railway stations to such and such a figure" (that is, reducing to a figure almost, if not quite, equal to our own).

Whereupon we frequently point out in reply that our rate, though below that of the railways, is not unreasonably so, in view of the slower water-carriage and other factors.

This, Sir, is just a commentary upon Mr. Bose's expressed view that all steamer rates should be considerably lower than those of the railways. I can only say that I wish it were at our option so as to maintain them. We should do so in most cases, and obtain a lot more traffic thereby.

Actually, there are very few cases where important classes of traffic by river and railway are not competitive, and the sort of thing which I have outlined is more or less universal throughout our services.

I Could give the members of this House 50—and probably 500—instances where the steamer companies are required to charge freight rates closely corresponding to the equivalent railway rates. However, I will not detain the House for more than a minute in quoting one or two illustrations.

Let us take jute, which accounts for more than 75 *per cent.* of the traffic which passes by river to Calcutta. Most of it comes from the Mymensingh district, and much of it from one of the important baling centres known as Sarisabari. We are required (and the option is not in our hands) to charge a freight to Calcutta exactly corresponding to the rate charged by the railway. So closely does this competition work out that the railways which have a shorter lead to mills situated north of Calcutta, obtain the traffic for those mills, whilst the river transport, whose services enter Calcutta from the south have a corresponding advantage for mills situated below Calcutta.

One other instance to which I might refer is that of tea, of which many lakhs of chests annually come to Calcutta and Chittagong from the Assam districts. Here, also, we have no margin in the river rate, as against that of the railways, from stations in Upper Assam where so much of the tea is grown. In short, Sir, my hon'ble friend may rest assured that the days are gone, if indeed they ever existed during our time, when the steamer companies have to any degree whatsoever been in the happy position of monopolists. The railways have seen to that, closely following as they do, in so many cases, alignments which bring

them into touch with the riverine markets and towns originally developed by the steamer services, and it is not for the steamer companies to stand out in the matter of freight-rates policy, against these railways who nowadays encompass them on all sides, with the Railway Board supporting them in the background.

It may further be of interest to Mr. Bose to learn that that other form of competition, the country boat, according to statistics prepared by the Government some years ago, carried into and out of Calcutta more than 50 per cent. more traffic in a year than did the steamer services.

Sir, I think that this will prove that whilst we are faced with competition on all sides, we do not have a free hand in the matter of freight rates. It has in fact been this very aspect of the matter which has occasioned us so much concern in our consideration of the implications of this Bill, realising as we have done that the position was not such that river traffic could be retained, and consequently the anticipated revenue to the Trust be realised from surcharges, quite so readily as appeared to have been assumed in some quarters.

Sir, the Inland Navigation Companies have all along lent their support to the formation of a Waterways Trust, and although that formation may present to them a difficult financial problem they have not withdrawn that support, if the problem is not to be an insurmountable one. But, Sir, it is almost impossible for any but those who are in regular every-day touch with this question of transport by river, railway, and, to an increasing extent, by road, to appreciate its delicacy, and the ease with which injudicious action may have the most far-reaching effect, alike upon the transport and upon the revenue of the Trust, which it would be designed to afford.

For this reason, Sir, I trust that this House will support my amendment, and that the Hon'ble Member will have no objection to its incorporation in the Bill, in order that, at the outset of the Waterways Trust's inauguration, no question may arise of any false step being made, or any decision being taken which may afterwards require to be revised and reversed

Sir, with these words I commend my revised amendment to the consideration of the House.

Mr. NARENDRA KUMAR BASU: Mr. President, Sir, in introducing this amendment Mr. Sumner has merely given this House a rehash of the memorandum furnished by the inland steamer companies and of the note thereupon by the Bengal Chamber of Commerce. As far as I could catch Mr. Sumner, I am sorry to say that I did not hear any new argument advanced in favour of this amendment, except the one stated in the note which has been circulated to the members of the

Council. Sir, this question of competitive rates was gone into very fully by the Select Committee and it was definitely elicited that there are no competitive rates. This fact of competition between the river transport companies and the railway companies may be put into a nutshell: the freight from the bigger stations from which this traffic comes is fixed by arrangement between the two parties. And, I suppose, that if the freight of the steamer companies is higher, the railways would probably raise their rates also and thus make extra profits. In order to guard against such an eventuality, the Select Committee stated that—I refer to the non-official members of the Committee inasmuch as the official members abstained from voting—"in order to augment the funds of the Board and to prevent the loss of revenue from the surcharge proposed on inland vessels by the likely diversion of traffic to other transport agencies not liable to surcharges under the Bill, particularly the railways, the Local Government should examine the case and consider the manner in which the Bill could be amended to permit of the imposition of taxes in the nature of terminal taxes on passengers and goods booked to, through, and from certain specified rail heads in the province adjacent to navigable waterways." That, Sir, one can understand, but we do not understand why in fixing the percentage to be levied on the steamer companies opportunity is to be taken for considering the existing railway and steamer rates—not to speak of the existing competitive rates because there are none. On these grounds, Sir, I oppose the amendment.

Dr. NARESH CHANDRA SEN GUPTA: In the form in which Mr. Sumner has moved his amendment, it seems, on the face of it, nothing very unreasonable—"provided that in fixing such percentages the Board shall take into consideration the existing rates by rail and river routes . . ." But there are numerous other things which will have to be taken into consideration. Why single out this one consideration, unless it means that the Board under these circumstances must not fix the percentage so as to increase the burden of the steamer companies beyond what is called competitive rates, and with regard to the existence of which my friends who have been on the Select Committee and investigated the matter, are so very sceptical. If you are going to place this additional security on behalf of the steamer companies in the Bill, it is well, before doing that, that other things should also be considered. You have got to examine the steamer freights themselves. If you make such an examination extraordinary facts will appear. With regard to the jute trade—which Mr. Sumner referred to as a factor which brings in the maximum amount of income—with regard to freight on jute it is a fact, which Mr. Sumner, I suppose, will not deny, that there are no uniform rates of freight for

jute. In areas where there are railways, freights on jute are reasonable. In areas where there are no railways, it is beyond all reason. I have gone into this matter myself in another connection—and there this was found to be a fact. Besides that, there is more, and that is, that there are differential rates charged by steamer companies in respect of freight on jute from the same station. These differential rates are arrived at by certain arrangement with certain bodies in Calcutta, and jute which is imported by those bodies, have got certain preferential rates. These are matters which we know of, but which cannot come within the scope of this Bill. But if the steamer companies want special protection given to them, first of all they must submit to an examination of their freight rates and satisfy the Government, and satisfy the House that their rates are fair. They ask for fair treatment, but "who seeks equity, must give equity." But we are not satisfied that they are showing equity to the jute traders and growers of Bengal, and if they are not doing that, we are not going to give them these special facilities, these privileges in this Bill. At the same time, there is no reason why the Board will cut their own throats by imposing upon the steamer companies a rate of freight by which the income of the Board itself will be ultimately reduced? There is no reason for introducing this clause, and so far as the claim of these steamer companies is concerned, they have not made out a case.

Babu SATISH CHANDRA RAY CHOWDHURY: I think Mr. Sumner's motion does not deserve such an off-hand condemnation. So far as the riparian districts, especially the Eastern Bengal districts are concerned, I have no hesitation in saying that the steamer companies are of more service than the railways to the poor people of these districts. Of course we know, so far as Mymensingh is concerned, and this has been referred to by Mr. Sumner, most of the jute-producing areas are on the side of the rivers, and if the steamer companies are placed at a disadvantage, the ultimate loss will be to the growers and cultivators of jute. The advantage of the steamer companies is that not only is there a favourable rate fixed, but also the fact that, unlike transport by railways, there is not much loss involved in carriage. Merchants and traders, as well as cultivators, generally prefer therefore transport by steamers. We should not forget that the development of the industries of the Estern Bengal districts is due mainly to the steamer companies which came into existence much earlier than the railway service. It would be altogether too harmful if the Government does not keep in view the fact that the rates should not be fixed so as to place the steamer companies at a disadvantage. The amendment also is worded in a way which shows no harmful result

will follow to other transport services by giving effect to this recommendation. All that it says is "that the Board shall take into consideration the existing competitive rates....." It does not say, as a matter of fact, that the steamer companies should be compelled to carry at a lower rate, but that the other facts should be kept in view so that the steamer service may go on doing the service which they are at present doing in the Eastern Bengal and Assam districts. I do not see any serious objection to the amendment which has been moved by Mr. Sumner, and I unhesitatingly support it in the interests of the people.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: We have really reached the most crucial point so far in this Bill. Here we are thinking of the finances of the whole scheme inaugurated under this Bill. One of the principal persons who will have to pay are the steamer companies and my friend, if I have understood him aright, my friend, Mr. N. K. Basu, has tried to make out that the steamer is an evil——

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. Is there no limit to misrepresentation? Have I ever said that the steamer companies are an evil?

Nawab MUSHARRUF HOSAIN, Khan Bahadur: I may say that the steamer companies and anything connected with the steamers are an evil, though I do not believe that steamer is an evil. On the contrary I believe the steamer is a blessing. Wherever there is a steamer service the railway is moderate in its demand. The railway freight should be very much smaller than what it is. I know a place in the Duars which is just 325 or 330 miles from here. From there I am to pay Re. 1-11 per maund of tea. There is no competitive rate there. I give you another place which is about 500 miles from here. That is another tea garden. There the railway rate is Re. 1-6-11. But if I am to send my tea by steamer my rate is Re. 1-4-11 or annas 5. Is this not competition? Has not even the evil steamship transport done some good to the tax-payers? If there was no steamer service there, the railway would have demanded from me probably Rs. 3 per maund. So, they do not deserve to be dealt with by all of us so that they should cease to exist in future. It is for our good and for the good of those who are really paying the freight that there should be (say) two services, both railway and steamer, and that they should not be really strangled and we should allow them to live. They will also do some real good to us in future as they have been doing now. That being the case, it will not be wrong on my part to say that when the steamer companies' existence is at stake the Government legislature and all right thinking people should see that they are not

unnecessarily crushed out of existence. I would appeal to the House to consider this aspect of the case. I do not think that the steamer is an evil from every point of view. If the steamer service is not in Eastern Bengal probably Barisal would not have been reached at least within a month——

Khan Bahadur Maulvi MUHAMMAD ABDUL MOMIN: Barisal does not want it.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: My friend, the leader of the Proja Party, says that he does not want it. We do not want to do away with the steamers. I wish the steamers will not go to his place and then find out how he fares. That being the case I think I would be justified in asking the Government to accept this humble proposition of Mr. Sumner. It is not much that he wants. It is one of the points of view that ought to be considered by the Board. If after consideration they reject his proposition we are not providing against that. What harm is there in accepting his amendment?

Mr. S. M. BOSE: I am sorry I must oppose this amendment. Mr. Sumner has very well explained the very unfortunate position of the steamer companies. They are, I suspect, entirely dictated to by the Government of India through the Railway Board. They have no option, I believe, in the matter of rates. Their rates, I suspect, are forced up because otherwise the railways will suffer and the Government of India will also suffer, so that it follows clearly that there are no competitive rates. The rates are trade rates or forced up rates by the railways and in that sense no doubt the steamer companies had originally grounds to grouse, but to speak of competitive rates is, to my mind, unfounded. I therefore think that this amendment ought not to be accepted. I trust that under the new provincial autonomy that we are all expecting the steamer companies will cease to be dictated by the railways.

Mr. L. R. FAWCUS: Mr. President, Sir, Mr. Sumner has made the task of Government replying to his amendment very much simpler by adopting only the first part of it instead of the full amendment as originally tabled. The gist of his speech has been to show that the steamer companies are at a disadvantage with the railways in a great many respects. Sir, I think there is another side to the picture. I cannot claim to have a long or extensive study of the subject; I can only say what has occurred to me after hearing the arguments which he has put forward. He referred to stations such as Sarisabari where there is direct competition between the steamers and the railway. Others I suppose will be Narayanganj, Chandpur and so on, but when

he referred to those stations where steamers suffer by competition or are liable to suffer by railway competition he said nothing of, one may almost say, hundreds of intermediate stations which dot the larger rivers such as Brahmaputra or the Meghna. From all these stations where there is no railway competition, the steamer companies naturally have a monopoly of the traffic.

Next, Sir, I was reminded by the speech of Nawab Musharruf Hosain that there is such a district as Bakarganj and that there is no railway there. I think I read in the memorandum sent in by the steamer companies to Government that 20 *per cent.* of their total traffic comes from Barisal. If I am right in my recollection, here is a place from which they are drawing 20 *per cent.* of their total traffic without any competition from the railways, and where there is only country boat competition. I do not think anybody can pretend that country boat competition seriously affects the steamer companies; my personal experience in Khulna certainly makes me inclined to dispute any such suggestion. Again, Sir, even in respect of those places where there is competition between the steamers and the railways, such as Sarisabari and the other stations which have been mentioned, nevertheless there also I think it must be admitted that the steamer companies have one great advantage over the railway companies, and that is that whereas nature has given the steamer companies their permanent way on the rivers, the railway companies have to spend lakhs, if not crores, of rupees in maintaining their permanent way in a satisfactory condition. I believe, Sir, though I speak without absolutely certain information—that railway companies now-a-days are generally running at a loss, and very few steamer companies are doing so.

Finally, Sir, though it is realised by Government that the proposed levy will place the steamer companies at some disadvantage by taking money out of their pockets, it can be fairly said that this tax will take money out of one of their pockets but to a great extent put it back into the other pocket, because of the improvement of the waterways which will be effected by its means. These, Sir, are the points which occur to me and in view of which I would ask the House not to accept the amendment of Mr. Sumner.

Mr. H. BIRKMYRE: Sir, I just like to make one observation on the speech made by Mr. Fawcus. He made the remark that as far as Government are aware country boats did not compete with steamer companies. He also said that for one steamer station where there is railway and steamer competition there are hundreds of stations where steamer companies have no competition to face. Perhaps Mr. Fawcus is not aware that country boats are very cheap to run as there are no expensive crews to pay or engineers to maintain. Nor are they liable

for survey with consequent loss of earning, time and heavy fees each year. These country boats ply for hire and take cargo at any rate to and from any station. I can give a personal experience. I had occasion to visit the jute districts a few months ago. It was fairly early in the season and we were told that even within the three months since they started over 20 lakhs of maunds of jute had been brought into this one station by country boats and transported from there by railway. I do not think that any further comment is necessary.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dildumr: Sir, I wish to add a few words to what has been said by Mr. Fawcus against the amendment moved by Mr. Sumner. I say this: it is never the intention of Government to treat the steamer companies harshly. The Nawab Saheb appealed to Government to have a soft corner for the steamer companies. May I tell him that Government have had a very soft corner all these years so far as the steamer companies are concerned. It must also be remembered that the steamer companies in Bengal enjoy a permanent route provided for them by nature, maintained and improved at public cost all these years. Many lakhs of rupees have been spent from the public exchequer for their benefit whereas the railways have to lay their line and maintain it at their own expense, and that makes a great difference. Moreover, Sir, members of this House have time after time jibed at the dredgers. They were purchased for whom, but for the steamer companies; the idea came from there. And, Sir, what has been the result. Since long years the revenues of Bengal have been saddled to the extent of Rs. 10 lakhs as interest charges on these dredgers. Of course I must modify by saying that if the Grand Trunk Canal Scheme had matured, it would have been used for the benefit of others also. Probably it will be said that it was in the interests of the railways that this scheme was not proceeded with. Far from that. I have here some figures gathered at random of the amount of money that has been spent time after time solely for the benefit of the steamer companies themselves, and those amounts have been spent from the public exchequer—from the revenues derived from the country. These sums amount to many lakhs. Over Rs. 16,73,000 was spent on the Doagra, another sum to the extent of Rs. 16,83,000 was spent on the Bil route and so forth: The list is too long to be repeated here, so I think it is very necessary for the steamer companies to remember all that has been done for them from the public revenues of Bengal and I appeal to them that they should realise the principle that those who use the traffic should contribute for its upkeep and maintenance. That is only playing the game. It is not the intention of Government to ride roughshod over them. Now, Sir, Mr. Sumner referred to the assurance given in the past. I submit, Sir, what is there. I quote what had been stated in the old Bill that was

drafted in 1902. I further added that before Government put this Act into operation they would be pleased to consult commercial interests. What is said is there. I have no intention of tying the hands of Government further in the manner suggested. It is certainly the case that Government will be pleased to consult commercial interests and things of that kind before putting the Act into operation. Nothing has been said, Sir, whereby I can feel that I should take a different view from what has been said by Mr. Fawcus. In the circumstances I must oppose the amendment.

Mr. Sumner's motion that to clause 66, the following proviso be added, namely: "Provided that in fixing such percentage the Board shall take into consideration the existing competitive rates by rail and river routes," was put and lost.

Babu SATYA KINKAR SAHANA: I beg to move that after clause 66(*b*) the following proviso be inserted, namely:—

"Provided that the percentages shall in no case be such as to make the steamer rates rise to the level of the rates charged by the railways."

Sir, in moving this amendment I am actuated by a consideration for the agriculturists and the small traders. We all know that not an inconsiderable portion of agricultural produce of the country is transported from one part of the country to the other by steam vessels. If the percentages were raised there will be no choice for the owners of the steam vessels but to raise the rates and in the long run the agriculturists and the small traders will be hard hit. Therefore, I propose this proviso as a safeguard for the agriculturists. With these words I commend my motion to the acceptance of the House.

Mr. C. R. SUMNER: With regard to this amendment I have only one remark to make, and that is that if the Hon'ble mover followed my remarks in respect of the previous amendment, he would I think surely have realised that the suggestion that steamer rates should in no case rise to the level of the rates charged by the railways is an utter impossibility until such time as the present policy of the Railway Board is changed. In many cases, as I have said in my remarks, it does not rest with the steamer companies whether the rates may or may not be less than those of the railways. So I do not think that this amendment can possibly be accepted.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dildoar: I am afraid I must oppose this amendment. Government must be fair. When I rose to oppose the other amendment,

I explained that the intention of Government was to be fair to all parties. For the same reason I find myself not in a position to accept this amendment.

The motion was then put and lost.

The sanction of Government of India not having been received, motion No. 292 did not arise.

The motion that clause 66 stand part of the Bill was then put and agreed to.

Clause 67.

The motion that clause 67 stand part of the Bill was then put and agreed to.

Clause 67A.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 67A, sub-clause (2) in lines 7 to 9, for the words beginning with "shall determine" and ending "accordingly" the following be substituted, namely:—

"may, if it is satisfied that the certificate was wrongly or improperly made cancel or modify such certificate and shall, if it is not so satisfied confirm such certificate."

Sir, the language of the clause requires modification. What the clause provides is that the Local Government after calling for such information and causing such inquiry if any to be made as it thinks fit shall determine the amount, if any, for which the owner shall be liable and shall cancel, modify or confirm the certificate accordingly. I am afraid there may be cases in which nothing is chargeable and that is not provided for. Then again, why make it obligatory on Government to determine the amount when Government may not have to determine anything at all, because Government may be satisfied that the certificate is correct? If the certificate is incorrect, then the Government might cancel, or modify the certificate. Modification includes the fixing of a different rate. I submit that the language of the clause does not convey exactly what the framers of the Bill wanted to convey. The Local Government should have the power, if it is satisfied that the certificate is not correct, to modify or cancel it, and if it is satisfied that the certificate is correct, to confirm it. But the two "shalls" land the Government in an impossibility. It may not be necessary to cancel or modify the certificate at all, but that contingency is not provided for. This is only a verbal amendment which makes the meaning clear.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dildusr: I regret the oversight which resulted in not asking the House to include the good Doctor to be a member of the Select Committee, because in that case he would have been given the opportunity of putting forth his arguments on various points. I may say, however, that this clause was very carefully considered by the

Select Committee and the draft, as it is, answers the purpose of the amendment. I do not think the suggested modification would improve the clause in any way. Hence I cannot accept it.

The motion was then put and lost.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 67A for sub-clause (*3*) the following be substituted, namely:—

"(*3*) The pendency of an appeal to the Local Government shall not by itself entitle the owner appealing to withhold payment to the Board of the amount in respect of which the certificate has been issued, but the Local Government may, if satisfied that substantial injury would be caused to the owner if he is compelled to pay such amount, stay such payment on terms of part payment or otherwise."

Sir, the principle of the clause as it stands is that the filing of the appeal by the person concerned would *ipso facto* operate as a suspension of the payment. Well, this is putting a temptation before everybody to file an appeal just for the purpose of delaying payment if for nothing else. In place of that I am substituting a clause by which it would be left to the discretion of the Local Government to determine whether the payment could be stayed or not. The principle embodied in the clause as I have drafted is the principle embodied in the Civil Procedure Code and it is the same principle which was the subject-matter of discussion in this House with regard to the Calcutta Municipal Act, and then Government most strenuously opposed any such principle as is embodied in sub-clause (*3*). Why the attitude of Government should be different in the case of the owner of a steam vessel from that towards a man against whom a surcharge is to be levied in the Calcutta Corporation is very difficult to understand. The position is this: the Waterways Board makes a charge against which there is an appeal by which the owner of a steam vessel wants that the charge should be Rs. 50 less out of Rs. 5,000 which has been charge. Under sub-clause (*3*) the payment is *ipso facto* suspended and the wheels of Government run none too fast. On the other hand the owner is saved from paying the money for say, six months or more. It would be a great advantage for him to keep the money in his pocket for six months. On the contrary I suggest that if the Government is satisfied that there is substantial injury to the owner, it will be open to the Local Government to stay the payment, otherwise the payment will have to be made. If, so soon as there is an appeal, the whole payment is suspended, appeals on the most flimsy grounds may be taken just for the sake of deferring payment. I, therefore, think that Government should be satisfied that there are substantial grounds before this dispensation is granted, and I suggested that the rule of the Civil Procedure Code be adopted here in preference to the rule laid down in the Bill.

Mr. L. R. FAWCUS: Sir, I think the answer is very simple. The Select Committee decided that pending an appeal the disputed amount should not be payable to the Board. This amendment would negative that decision or rather would make it incumbent on the appellant to obtain a special order of the local Government if payment is to be withheld. The view taken by the Select Committee seems to entail less hardship, and Government consider that unless there is a strong feeling in the House to the contrary they would prefer to negative this amendment.

The motion was then put and lost.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that after clause 67A (*3*) the following be added, namely:—

"(4) Nothing herein contained shall oust the jurisdiction of the Civil Court to determine the question of the legality or otherwise of the claim of the Board under the certificate."

Sir, the meaning of the amendment is quite clear and so I do not want to make a speech.

Mr. L. R. FAWCUS: We consulted the Legal Remembrancer on the question of this amendment and he advised us that it would be redundant and that the inherent jurisdiction of the Civil Court will not be affected in any way by the clause as it stands. I, therefore, oppose the amendment.

The motion was then put and lost.

The motion that clause 67A stand part of the Bill was then put and agreed to.

The motion that clause 67B stand part of the Bill was put and agreed to.

Clause 68.

Babu KHETTER MOHAN RAY: I beg to move that after clause 68(*1*) the following be added, namely:—

"Provided that the vessels using any line of navigation under the control of the Board in exercise of a right of fishery shall not be liable to pay any licence fee under the Act."

Sir, as we know, in almost all navigable rivers rights are exercised by certain classes of persons and in exercise of those rights fishermen fish in those rivers. If you impose any licence fees on these classes of people then it will interfere with the growth of fishery, and fishery is one of the valuable industries which our province possesses. We should not therefore in any way interfere with or infringe on the rights which they have enjoyed from time immemorial in accordance with custom and law.

Babu SATISH CHANDRA RAY CHOWDHURY: I beg to support the amendment of my friend. As a matter of fact, in Eastern Bengal there are many fishermen whose only means of subsistence is fishing in the rivers and if this Act is going to be applied to them, I am afraid many of them will have to give up their avocation and livelihood. Besides it will not bring much revenue to Government. I think therefore that Government should accept this amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: I have my suspicion when Babu Khetter Mohan Ray moves an amendment after some amendments have been carried in the house. May I ask my friend as to exactly what he means by saying "any vessels using any line of navigation in exercise of a right of fishery"? Does it apply to fishermen who take the lease for catching fish? Does the *bargadar* exercise the right of fishing or does the *zemindar* exercise his right of fishing? We do not understand what actually his intention is. If he means fishermen, then he proposes that anybody who catches fish should be exempt, and if that is intended he proposes that all fishermen should be exempted. But this is made clear by his amendment. It would be better if he had framed it in this way that fishermen catching fish should be exempted; but surely the language of his amendment as it stands is a bit unintelligible. That is my objection to this provision. I would certainly not mind if this House decided that all fishermen should be exempted; but that is a matter for the House to decide. If the House passes the clause as it stands it will mean immense trouble and probably a certain amount of litigation.

Dr. NARESH CHANDRA SEN GUPTA: The Hon'ble Member in charge of the Bill cast a most undeserving slur upon my friend, Khan Bahadur Azizul Haque, when he slandered him by saying that he was neither a jurist nor something else. But I think now that he is a great jurist and has got the essential qualification of a jurist to find distinction without a difference. But if my friend will read the clause and the amendment together, he will find that under this clause what is proposed is that the Board may give notice of their intention to levy licence fees in respect of any class of vessels. Licence fees will be charged in respect of vessels and not on anything else, and what is sought to be protected by this amendment is the vessels using any line of navigation in the exercise of any rights of fishery: that is to say, fishing vessels. It is neither the fishermen nor the *zemindars* nor anybody else who are going to get out of the fees. What is sought to be excluded is only the vessels——

Khan Bahadur Maulvi AZIZUL HAQUE: But how many months in the year will these vessels be exercising this right?

Dr. NARESH CHANDRA SEN GUPTA: I do not care about that. What I am thinking about is that those who use the channel for the purpose of navigation stand on a footing different from persons who use them for the purpose of fishing: the distinction is certainly well founded.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I think there is considerable misapprehension in the mind of the mover as well as of my friend, Babu Satish Chandra Ray Chowdhury, about this amendment. Sir, an appeal has been made to me that fishing boats should not be taxed. But it has not been said here on any occasion what sort of boats will have to pay the licence fee; that is left entirely to the Board. If the Board considers that smaller vessels and fishing boats or boats of that kind should be exempted, well, they will exempt them, and so far as Government is concerned they believe that that will be the case. Licences will be imposed on boats that carry merchandise and proper care would be taken to see that no hardship is caused and nothing is done so far as little *dinghas* or fishermen's boats, etc., are concerned. I think that I have been able to remove this misapprehension. As regards the other point a clear answer has been given by Khan Bahadur Azizul Haque, who though he may be a jurist, yet is not a philosopher. I oppose this amendment.

The motion was put and lost.

The motion that clauses 68 to 86 stand part of the Bill was put and agreed to.

Clause 87.

Mr. PRESIDENT: Motions Nos. 303 and 304 do not arise, since sanction has not been received from the Government of India.

Babu SATYA KINKAR SAHANA: I beg to move that in clause 87, line 4, for the words "five lakhs of" the words "two lakhs and fifty thousand" be substituted.

My object in moving this amendment is that, when the new Board has been formed, it should find its own finance. Our provincial exchequer is not overflowing with money, so I do not think that they should have more than Rs. 2,50,000 which I consider would be sufficient.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: I rise to oppose the amendment. We are here to see that proper finance comes from some quarter and the Select Committee have most advisedly accepted the idea that Government should contribute Rs. 5 lakhs. I see no reason why we should now deviate from the path that they have

chalked out for us. They are our representatives and tried their best to help us out of all difficulties that would be experienced on the floor of this House. I do not know how we can now go against their considered opinion and ruling. Here they, including the Hon'ble Member in charge of the Bill, have come to the conclusion that Rs. 5 lakhs will be found from the Government exchequer and I do not know why a member from among us should say that that money should be curtailed and that we should be satisfied with Rs. 2,50,000 only. We can expect this only from the gentleman from Bankura. We think that Government should adequately finance this scheme which is their creation: and when this is their pet child why should not they nurture it out of their own finance? That ought to be the first consideration. I see no reason why we should ask this House to accept a lesser sum than Rs. 5 lakhs. This is also another acid test through which Government will have to pass. If the Government are really anxious to see that the scheme that they have inaugurated ought to be carried out by the country, why should they close their purse-strings and say that they have no adequate finance to give to the Board. I appeal to Government to see that adequate funds are provided to the Board so that they may actually function; when I say so, I say so with full responsibility. I know as a matter of fact that the Bill is not coming into operation as long as the present slump continues: I am not sure if the Bill will at all come into operation. After what has fallen from the Hon'ble Member in charge of the Bill, I am inclined to think that the Bill will not come into operation for any length of time. The Bengal Chamber of Commerce and others will have to be approached and then he will have to wait till the economic condition improves. This being the case, I think this pet child can grow only when the economic condition improves and when the Government finances also improve with it.

Now coming to the point, I see no reason why Rs. 5 lakhs should not come from Government. (Applause!) Sir, when I find that applause is coming from my friend to the left, I believe he is also of the same opinion; but I do not know whether he has changed his mind in the meantime. I take him at his word as I see his name appears as one of the persons who signed the report of the Select Committee. So I believe he still holds that view and will stick to it and support me in the opinion which I have expressed. With these words, Sir, I oppose the motion of Mr. Sahana.

(The Council adjourned for prayer.)

(After adjournment.)

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I have since consulted my hon'ble colleagues, and I have decided to accept the amendment moved by Babu Satya Kinkar Sahana.

Mr. SHANTI SHEKHARESWAR RAY: May I inquire if the Hon'ble Member is not going to move his own motion?

Mr. PRESIDENT: It is covered by this one.

The motion being put, a division was called for.

Khan Bahadur MUHAMMAD ABDUL MOMIN: On a point of information, Sir. The difficulty here is that we do not know exactly what happened. In the first instance, when Mr. Sahana moved his amendment, the Hon'ble Member did not accept it——

Mr. PRESIDENT: Then you were caught napping?

Khan Bahadur MUHAMMAD ABDUL MOMIN: Yes, but we plead reasonable excuse, because we thought that the Hon'ble Member would move his own amendment on which we all thought we would have an opportunity of speaking. But we have been taken by surprise——

Mr. PRESIDENT: How could he if he accepted the amendment of Mr. Sahana?

Khan Bahadur Maulvi AZIZUL HAQUE: The difficulty is that the matter was not sufficiently debated, and if carried the other motions in the name of several other persons in the House will be dropped. We admit we have been caught napping, but the matter is a very important one. It is entirely in your discretion to recall the division and give us an opportunity of further debate.

Mr. PRESIDENT: I do not think the rules provide for such leniency. It is not possible to recall the division. The amendment was before the House, and if you did not speak, it was your own fault. I can only be sorry for that.

The division was then taken with the following result.

AYES.

Ahsan, Nawabzada Khwaja Muhammad, Khan Bahadur.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Satyendra Nath.
Barma, Rai Sahib Panchanan.
Barman, Babu Pyarilal.
Bazle Uddin, Khan Sahib Maulvi Muhammad.
Bose, Mr. S. M.
Cullenane, Mr. J. M.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Dutt, Rai Bahadur Dr. Haridhan.
Dutt, Mr. S. S.
Edgley, Mr. H. G. A.
Ezezji, Maulvi Nur Rahman Khan.
Farooqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghose, the Hon'ble Sir Ghare Chander.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dhaka.
Gilchrist, Mr. R. N.
Gladding, Mr. B.
Guha, Mr. P. N.
Hogg, Mr. G. P.
Hussain, Maulvi Latafat.

Khan, Mr. Razzor Rahman.
Mallik, Mr. G. M.
Miller, Mr. S. C.
Mitra, Babu Sarat Chandra.
Mullick, Mr. Nalinaksha Bohary.
Nag, Reverend S. A.
Nazimuddin, the Hon'ble Mr. Khwaja.
Raheem, Mr. A.
Rahman, Maulvi A. F. M. Abdur-
Rai Mahasai, Jogindra Deb.
Ray, Babu Nagendra Narayan.
Ray Chowdhury, Mr. K. G.
Ray Chowdhury, Babu Satish Chandra.
Reid, the Hon'ble Mr. R. N.
Roy, Mr. Saileswar Singh.
Roy, Mr. Surat Kumar.
Roy, Mr. S. N.
Roy Chowdhuri, Babu Hem Chandra.
Sarbar, Rai Bahadur Satyendra Nath.
Sen, Mr. B. C.
Singha, Mr. Arun Chandra.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Williams, Mr. A. DeC.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Ashworth, Mr. G. C.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Birkmyre, Mr. H.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Dr. Jogendra Chandra.
Choudhuri, Babu Kishori Mohan.
Choudhuri, Maulvi Syed Osman Haider.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Sural Absar.
Dain, Mr. G. R.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hoque, Kazi Emdadul.
Hossain, Nawab Musharraf, Khan Bahadur.
Hossain, Maulvi Muhammad.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Maiti, Mr. B.
Mason, Mr. G. A.
Miller, Mr. G. G.
Momin, Khan Bahadur Muhammad Abdul.
Mukhopadhyaya, Rai Sahib Sarat Chandra.
Nag, Babu Suk Lal.
Nicholl, Mr. C. K.
Norton, Mr. H. N.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Sarl, Babu Nagesri.
Ray, Babu Jitendra Nath.
Sen, Rai Sahib Akshoy Kumar.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.
Singh, Srijut Taj Bahadur.
Solaiman, Maulvi Muhammad.
Stevens, Mr. J. W. H.
Summer, Mr. C. R.
Thompson, Mr. W. H.

The "Ayes" being 48 and "Noes" 41, the motion was carried.

Clause 87 as amended.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, may we not have a general discussion now on clause 87 as amended?

Mr. PRESIDENT: Yes, you can speak on the clause now.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, by carrying this amendment Government without giving any explanation have gone behind the report of the Hopkyns Committee. As is known to the House the Hopkyns Committee recommended that about 13 to 14 lakhs of rupees ought to be made available for carrying on the work of navigation, and yet there is no explanation offered why a sum of rupees two lakhs fifty thousand only is to be sanctioned for the project. Probably the reason behind it is that that will be the extent of retrenchment that will be possible by introducing this measure in the Presidency. The House has not yet been able to get

any idea as to how that retrenchment is possible and how the figures have been arrived at. If those figures had been available, it would have been possible to compare them with the figures of the Hopkyns Committee. Unfortunately, those figures are not available and we have to take it for granted that this is the figure which Government can retrench. Whether or no more retrenchment is possible, Government by carrying this amendment have left no room for enhancement of the grant except that the Local Government shall pay to the Beard during the first 5 years after the commencement of the Act an annual contribution of not less than rupees two lakhs fifty thousand payable in equal instalments on the first day of each quarter. If this draft had been so couched that this was the minimum sum available and that more sum would be payable by Government if the necessity arose, it would have been all right. But as it is, it is only Rs. 2,50,000 that will be available, unless of course some interpretation is put on it in a different manner. I do not at this stage want to say anything more than this: that after the recording of votes we feel that the Board will begin to function with very great paucity of funds. The needs of Bengal rivers so far as navigation is concerned are very great and we have heard both here and outside that it is considered that by reconstructing the waterways it will be possible to make navigation convenient for all. Well, Sir, when it is possible for Government to give help in this direction, they are not going to do anything. I need not say anything more. The general sense of the House is that that this is a very small grant and it will be better if more grants are made available for this purpose.

Dr. NARESH CHANDRA SEN GUPTA: Sir, by helping to carry this amendment the Government has taken the last step to make the whole Bill absolutely farcical. We have moved in this House amendment after amendment, trying to improve the Bill and to secure that the Bill should operate for the benefit of the people. All those amendments have been stoutly opposed by Government and last of all comes this final blow. The Bill constitutes a Board which must have a Chairman with a salary fixed, a Chief Engineer and at least one Executive Engineer, and the Board must have a corresponding staff to feed the Chief Engineer and the Executive Engineers. The Board must also maintain the white elephants—I mean the dredgers—which will be given free as an act of charity by the Government. After all this is done one can easily see that there will not be much money left in the hands of the Board to carry out any programme for the improvement of the waterways, far less any comprehensive programme at all. Therefore, the whole thing has been reduced to an absurdity. Well, Sir, the Board, I am sure, with this small pittance of a grant from Government in place of 14½ lakhs now spent on navigation according to the Hopkyns Committee, the Board if cross-examined after several years

of its fruitless existence, will have to say, as a frank officer of Irrigation once said, that their sole function is to maintain an establishment. I have no doubt that after this last step the Bill will not have any support from any responsible member of this House.

Mr. NARENDRA KUMAR BASU: Sir, I submit that the acceptance of this reduced grant goes against the recommendation not only of the Hopkyns Committee, not only of all the non-official members of the Select Committee—who were the representatives of this House on the Select Committee—without distinction of class, creed or colour, not only does it make the Bill infructuous, but I deliberately say it is designed to make the Bill infructuous. Sir, for several days now we have been hearing about the anxiety of Government to have a Waterways Board and the value of that anxiety has been made patent now. We find that when Mr. Sahana moved his amendment, in answer to your question the Hon'ble Member said that he was going to oppose it. But just after the interval we were ring up on the division bell and told that Government had accepted it. I am not charging him for having changed his mind—he is quite competent to change his mind half a dozen times in as many seconds or minutes, but I submit it is an insult to the intelligence of the House, after the non-official members of the House in a body had recommended that the Local Government's grant should be at least 5 lakhs and that the Government should explore avenues for having the finances of the Board improved, I say it is a deliberate affront to the intelligence of the House to say now that Government accepts this reduced grant.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I must at this stage enter my emphatic protest at the way in which this particular amendment has been dealt with. Sir, the Hon'ble Member in charge is certainly within his rights to have accepted the amendment of Mr. Sahana, but I am afraid that the tactics which has been displayed by him in this matter does not redound to the credit of Government. We, on this side of the House, were considering seriously whether we should oppose or support this particular amendment. Many of us were under the impression that if this particular amendment was passed the probability was that the present Act would be dropped. As we honestly believed that the Waterways Bill would do a great deal of good to the people of this country, we would have been very reluctant indeed to be party to any action which would have the consequence of defeating the Bill altogether. At the same time I feel, Sir, that if this particular clause is accepted, the result will practically be the same as if we had dropped the Bill. Yesterday in this House the motion which I tabled about the dredgers and other things that would be taken over by the Board under compulsion as a free gift was defeated, with the consequence

that the Board will have to maintain all these costly useless articles. I do not know what the cost of the maintenance of these dredgers at the present moment is, but I believe it is somewhere in the region of Rs. 2½ lakhs. The implication of this amendment will be that for the first 5 years the Board will be able to do nothing else than to maintain these dredgers with the money which Government will contribute. What good the Waterways Bill will bring to the people if the only way in which the Board will function will be to maintain the establishment and the useless appendage? It would be much better if there was provision for larger finances in the Bill and if the Government were unable at the present moment to supply that money the Bill could be kept in a state of suspended animation just as the Primary Education Bill has been kept. By passing this particular clause we are in this position that Government will bring this Act into force and then form the Board and hand over to them the princely sum of Rs. 2,50,000. That sum will not be sufficient to pay the salary of the establishment, the engineers and others and also meet the cost of maintenance of the dredgers and other appendages. At an earlier stage many of us moved amendments asking for the reduction of the pay of the engineers and others, but there also we were unable to reduce the expenditure. Government kept up the expenditure as high as they liked. At the same time they would not give us the money to meet the expenditure. I do not think that any of us can congratulate either ourselves or the House for passing this Bill even if it is passed into law. I, therefore, oppose this clause altogether.

Mr. C. C. MILLER: Sir, I regret that this group has to associate itself with the previous speakers in regard to our dislike of the tactics of the Hon'ble Member in charge of the Bill. I personally visualise the Hon'ble Member rather in the guise of a great sea captain of bygone times who desires to sail with his grand fleet, in this case consisting of 5 dredgers, to confer innumerable benefits on the riverine districts of Bengal. That was always the slogan of the old adventurers. The House will remember that the early sea captains of Spain inflicted so many benefits on the peoples of Peru and Mexico that they almost exterminated them in the process. Then we have the Hon'ble the Finance Member in the guise of a thoroughly niggardly paymaster, that again is very true to type. The Government in those days seldom spent much on expeditions before they were sent out. Thus, if the ship foundered and the enterprise came to nothing, Government lost very little. If on the other hand, the fleet returned with rich cargoes, those cargoes were equally divided between the captain and the crew and the Government. Very often such cargoes showed unmistakable signs of being the legitimate properties of others, but Government did not ask any question. Principles remain though methods may change.

In those times Government supplemented their income by piracy and in these days Government line their coffers by continuous and excessive taxation. I am afraid I cannot place the non-official members of the Select Committee in any role except that they are hard-headed businessmen of to-day. They desire that their admiral should achieve his beneficent object, but they also desire that Government should at the outset place at his disposal funds sufficient for his successful achievement. The admiral, however, by tactics to which we have taken exception proposes to sail hopelessly undermanned, utterly ill-equipped and one cannot but feel that the result would be disastrous. Since there is not enough money at the outset his expedition in all probability will have to live on piracy or excessive taxation. In these days of scarcity excessive taxation has a way of working back along the chain till it reaches the man at the end who bears the principal weight; he is the primary producer and the self same *raiyat* whom our admiral desires to benefit. We cannot but feel that once he has left the shores of Calcutta, that well-known flag, the water-hyacinth, will be hauled down from the mast-head and the old pirates flag of the skull and cross-bones hoisted in its place. We feel, Sir, that the expedition will be disastrous and what will be left of it will be one or two derelict dredgers or a telescope washed up on the shores of Sunderbans. However, there is nothing that we can do except that we feel very strongly that we must oppose this clause.

Mr. P. BANERJI: Sir, I think to-day's incident should be an eye-opener to the members of all the groups of this House. Mr. Miller has just pointed out, very seriously I think, while referring to the captain of the ship, that the cargoes are divided between the captain of the ship and the Government; but he forgets that it is by our action that the Government venture to do all sorts of things, because when the members of different groups are always supporting the Government in measures detrimental to the interests of the people, they absolutely forget that the other members of the House equally feel when the cargoes are shared in the way stated by Mr. Miller. Those gentlemen have realised it to-day, and I say that it is the folly and tactics of Government, and we the members on this side of the House knew it for a long time and therefore we opposed Government in all those measures which we knew were not adopted in the interests of the people.

Coming to the question before the House, it has been clearly explained by several members what this amount of Rs. 2,50,000 is for. We have often protested against the principles of the Bill and urged upon the House to do so. They are wasting this money. In fact in the countryside Government are oppressing the people, and their oppression is worse than that of the *Marhatta Bargis*. I want the members of this

House, especially the independent Britishers, to realise that the Government is doing nothing but only bluffing us. If we take the matter into our serious consideration, we all find that this sum of Rs. 5 lakhs is after all nothing but a mere drop in the ocean to do any good to the people and to save the dying rivers of the province. Therefore, I would request the members of the House not to support Government on every occasion and encourage them to do all sorts of injustice to the people.

Maulvi ABUL KASEM: Sir, I regret that whenever there is a cry for something to be done for the benefit of the people of this country, Government should oppose it and come forward with a Bill of their own before this Council. Just as Khan Bahadur Momin has said, we have passed the Primary Education Bill and I may add the Bengal Industries Bill simply in the belief that Government really intend to do something for the benefit of the people. But we find that in fact there is no such intention on the part of Government, and I think some practical jokes have been played upon us often. One of the reasons put forward as to why we should accept the amendment moved by Babu Satya Kinkar Sahana is that Government have not sufficient funds at their disposal. I say in reply that Government have money to throw into the Ganges and in many other directions, but whenever money is wanted for the benefit of the people, for the improvement of their economic condition, and even for the improvement of the Government itself, they will not spend a pie, because the Writers' Building think that whatever they think proper is the only thing to be considered the best. We have tolerated this state of things for rather too long, and it would be rather too much for us to swallow this pill. It is no good having the Waterways Board without sufficient funds behind it. The Government of Bengal very generously and I think most extra-generously have contributed a very heavy sum to the Calcutta Improvement Trust for the improvement of Calcutta where the Government generally reside, but Calcutta is not Bengal, and the people of Bengal will not benefit by the improvement of Calcutta. It may be the second city in the empire and money has been found for the improvement of its roads, lands and bye-lanes, but no money is available for the advancement of industries or even for the improvement of waterways which affect the greater portion of the province. I, therefore, agree with my friends in opposing this amendment. This motion has been opposed by the leader of the Muhammadan group, by the European group and by two prominent members of the Hindu group, and if in spite of this opposition Government press for this motion, it would be sheer want of prudence on their part. Of course, they can do whatever they like, but I think it would not be fair on their part to ignore the opinion of all sections of the House.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: Mr. President, Sir, I have heard some member talking of tactics and the Khan Bahadur sitting yonder saying that it did not redound to my credit. But may I ask him whether he can deny that I only acted on his own advice? Can he deny that I have only accepted the advice that he put forward, and am I now to exclaim "Oh Lord! deliver us from our advisers"?

Mr. PRESIDENT: I shall be much obliged if you do not introduce matters which are not before the House.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: Very well, Sir. I was certain before I came into the Chambers that one of the members would get up and say that Government, who based its Bill on the report of the Expert Committee, is now going behind it altogether and that has actually been said, repeated, laid stress upon by a person no other than the gallant Khan Bahadur hailing from Nadia. Sir, I deny that charge. I say that Government have stood by the report, do stand by the report and they did nothing against the report. What is the position? The Expert Committee in their report recommended that the contribution from Government should be 5 lakhs; they also stated how that 5 lakhs was to be derived and this is what they say:

"We suggest that the first source of the Trust's income should be a grant from the Local Government based upon the expenditure actually incurred on navigation during the three years prior to the formation of the Trust. We have not the full information necessary to enable us to calculate the amount of this grant; it will have to be determined by the Accountant-General after a detailed scrutiny of the accounts of the years in question. For the purpose of the calculation any exceptional expenditure, which is unlikely to recur, such as that on the renewal of the bridges on the Calcutta canals, might be excluded from the expenditure side, Government merely undertaking to finance the work in question to completion; similarly from the receipts on capital account should be excluded exceptional and non-recurring receipts such as any large items on account of the sale of land. For the purpose of the calculation we should not regard expenditure upon the sluices on the Lower Kumar as exceptional; new works of one kind or another, to the amount expended annually upon these sluices, may be anticipated in every year. From rough figures which have been placed before us it seems likely that the past normal annual expenditure on navigation will work out at about Rs. 14½ lakhs.

"In the same way the average receipts from tolls during the last three years should be calculated; the amount will probably be found to be about Rs. 9½ lakhs. Assuming these figures (mark the word

'assuming') to be correct, we propose that the Local Government should hand over to the Trust the existing navigation works in the province and the right to collect tolls upon them together with a grant of Rs. 5 lakhs, the present deficit on their working."

Well, Sir, I maintain that Government have followed precisely the recommendations made by the Expert Committee and this is how it has been worked out. The Government contribution which was suggested in my amendment was Rs. 2,31,000. This is based on the difference between the normal expenditure on, and the receipts from, the navigation works to be handed over to the Trust. It represents a sum equal to the estimated annual saving which will accrue to Government when the Trust is formed, exclusive of interest on and the repayment of loans which Government will continue to bear. The Irrigation Department Committee estimated the savings at approximately Rs. 5 lakhs. This figure however included the whole of the *pro rata* charges for establishment on the works which will be taken over by the Trust. The Bengal Government will, however, not be entirely relieved of all these charges as only one division, three subdivisions and 12 sections can be abolished in the Irrigation Department on the formation of the Trust. When correctly calculated on the above lines, the savings amount to Rs. 2,31,000.

Therefore, it will be seen that Government has in no way deviated from the recommendation of the Select Committee. The question has been raised as regards the correctness of the figures arrived at. Sir, I have these figures with me and they have been checked by the Finance Department, the Hon'ble Finance Member is here to answer the charge. If any member cares to check the calculations and if he can prove that the figures are wrong and that the amount should be five lakhs, well, Government will certainly put down that amount. I have based the figures in my amendment on the recommendation of the Committee and in the manner in which they recommended that this amount should be derived. So much for this.

I want all the members of the House to lend me their ears and listen very carefully to what I am saying. I said so only the other day that I am with them and that nobody would be better pleased than myself if the Trust could start with, why five lakhs but even a crore of rupees. I believe that the machinery which by the grace of God we are going to set up to-day will be something which will do immense good to the people of the country. I do think that our rivers, our *beels*, our *khals* and those minor routes which contribute to the health and prosperity of the rural population have been woefully neglected. I said so in the Select Committee and I repeat it now that the negligence has been such that it might almost be called criminal. But, however, it is never too late to mend, and, therefore, now that the time has come when with

the co-operation of this House, co-operation with the members of the Select Committee we have evolved a machinery in order to really do some good to the country, it should be understood that there is no intention on the part of the Government to belittle it. Furthermore, may I, Sir, with your permission, just read the clause as it is in the Bill. What does this clause say? It says this:—

"There shall be payable by the Local Government to the Board during the first five years after the commencement of this Act an annual contribution of not less than five lakhs of rupees payable in equal instalments on the first day of each quarter and after the expiry of the above period such annual contribution as may be determined from time to time by the Local Government."

This clause lays down the amount of Government's contribution. Sir, what does that mean? Is that not plain English? The words "not less than five lakhs of rupees"? Does it debar Government at any time from paying not only five lakhs but even fifty lakhs? I pray to God along with you that that time may come when financial improvement will be at our doors and Government will be in a position not only to pay five lakhs but 50 lakhs or even one crore or two crores, if necessary. I say, Sir, that at the present moment we have to cut our coat according to our cloth. But the financial condition at the present moment is such that Government should be careful of embodying such a statutory provision to the extent of five lakhs. They must safeguard themselves as they have to look after the various interests in the various departments of Government and in various walks of life. In view of the financial situation Government had thought it prudent to agree to a minimum statutory provision of two and a half lakhs. But we made it quite clear that we kept the door not only ajar but wide open for Government to enable them to enhance the amount whenever they were able to do so. I see, therefore, no reason why members of this House should take any exception to the clause in the manner in which it has been framed. In addition to this when the time actually came, when the psychological moment actually arrived for me to move my amendment, and I found that there was a gentleman sitting over there, I mean my friend, Mr. Satya Kinkar Sahana, who actually moved an amendment which meant a few thousand rupees more than the amount which Government proposed to put down in the Bill as a result of the calculation which I have just referred to, and having regard to the fact that only the other day when my friend, Maulvi Majid Baksh, speaking in this House said, we should be thankful for what finances we have been able to secure for the Board, I thought it would be an act of gesture if I could get my colleagues, particularly my colleague the Finance Member, to agree to the simple proposition of raising the amount to two and half lakhs. So it will appear that I have not in any way been guilty of any tactics. On the contrary, I maintain that I have given

proof of the innate sympathy of Government and the views which Government take in this matter; but I very much regret to see that this gesture of Government instead of being hailed with acclamation has been received with suspicion in this House, and that some members who have spoken, have not been able to understand the implications of the clause or the broad-mindedness and large-heartedness of Government in the matter. (Interruptions.)

I share the anxiety of my friend, Mr. Narendra Kumar Basu, to see the Board's coffers well filled; yes, I entirely agree with him in this view, but I do protest against what some members have said that this contribution is nothing and so on. I say, Sir, that their memory is very short. A few days ago I gave an exposition of the financial position of the Board but that has not been commented on by any speaker. I further stated that this will be a concern which will be carried on by experts belonging to various public bodies in businesslike manner by men who have been trained in various matters. Furthermore to begin with we are going to have a decent amount of money. Let us make a beginning and see what we can do with this money. Sir, those members who have got up in this House and said that they do not realise this aspect of the position do not remember the old saying that "a bird in hand is worth two in the bush." We have got the machinery settled, our finances are quite enough at any rate to begin with, but if after experience of the working it is found that they are not enough there will be ample time to bring in an amending Bill; the Board may appeal to the Government to raise the amount of the contribution, and Government may be only too glad to help the Board in every way it can, a machinery which has been designed to do so much good to benefit the people of Bengal. The only difference is that hitherto not much attention has been paid to this matter. Sir, what is the machinery now going to do? The beneficent activities of the Board will be distributed between all classes of people, so that the rural population will also be benefited.

I have also been told in this connection that the flag of water-hyacinth will be hoisted or some such phrase which I was not quite able to catch. But I can assure my friend who used that phrase that——

Mr. C. C. MILLER: Sir, all I said was that it was probable that the water-hyacinth flag will be lowered and the black flag of skull and cross-bones would be hoisted in its place.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: But that would make the thing much worse and this only gives me the impression that he has failed to grasp the position, but it is no use further labouring the point. I think it will be understood that there is no question at all about the machinery doing nothing

important. On the contrary, it has a great future before it, and for that reason I think we should all give our wholehearted support to a measure of this kind.

Khan Bahadur Maulvi AZIZUL HAQUE: On a point of information, Sir. Will the Hon'ble Member be pleased to circulate the figure, the basis on which he has arrived at his calculation? The Hon'ble Member has stated that Government will be able to spare Rs. 2,30,000. Will the Hon'ble Member be pleased to tell us whether this will be available to us, or will it be convenient to him to circulate this figure.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: I have it on the authority of my friend to the right, the Finance Member of Bengal. He will be only too pleased to explain the figures, and the way in which they have been arrived at. Anyone who cares, may come and see them.

Mr. W. H. THOMPSON: You have heard the Hon'ble Member, Sir. You have heard his apology for his life. He began by saying that he had heard a number of criticisms of himself and his tactics. I have heard them too, and his replies to them; but I am not the judge who is to sum up. The House will judge the Hon'ble Member and his tactics. For myself I have been a member of this House for six years. I was associated first with the Government of Bengal about 25 years ago, and never in my experience has the Government descended in a matter of legislation to a tactical trick. Sir, in order if possible to smooth things over to some extent, you have been kind enough to allow me to propose by way of amendment, a proviso to be added to this section. I doubt whether it has much meaning, Sir, but you shall judge:

"Provided that on the representation of the Board or otherwise, the Local Government may raise its contribution to any sum larger than the amount provided in this section."

It is true, Sir, that all that the section provided is the minimum, but I think some addition like this will do two things. First of all, it will give the Board a statutory right to represent its pecuniary difficulties and its scarecrow character to the Government, and it will also indicate that this House hopes, and this House very definitely does hope, every man in this House hopes, that the contribution will be larger when Government can make it larger.

Mr. SHANTI SHEKHARESWAR RAY: I must oppose this amendment moved by Mr. Thompson because I do not understand what

he professes in putting forward an amendment of this nature. I can understand opposition to this Bill, and I expressed my opposition when the Bill was sent to the Select Committee.

Mr. W. H. THOMPSON: You did not.

Mr. SHANTI SHEKHARESWAR RAY: I did. When the amendment was under discussion the members from his group opposed the motion and I think Mr. Thompson shared in that opposition. But now he comes forward with an amendment which, if accepted by the Government and the House, would help to change his mind and the mind of his group. Sir, if members of the British group are serious in their opposition I submit they ought to be serious in the matter. What is it Mr. Thompson gains if this amendment is accepted by Government? The Government can always raise their contribution irrespective of any statutory provision of this nature in this Bill. It will not help the Waterways Board in any way. I can understand the provision for a minimum contribution of Rs. 5 lakhs or Rs. 2½ lakhs because it is necessary that Government should be bound by a minimum contribution and would also give us an idea whether the Waterways Bill when enacted would function. It is in no way desirable to weaken our opposition by such a meaningless amendment.

Maulvi TAMIZUDDIN KHAN: I also feel constrained to oppose the motion because it seems to me to be meaningless. The Bill provides that the contribution should not be less than Rs. 2,50,000. That is the provision in the Bill as amended. Now the proposed proviso is that the Government can, when necessary, increase this amount higher. It is absolutely meaningless because the clause itself says that the contribution shall not be less than a certain amount, that is, it may be raised at any time when the Government find itself solvent enough to do so.

Mr. NARENDRA KUMAR BASU: I beg to join in the opposition to the amendment moved by Mr. Thompson, but I join issue with Maulvi Tamizuddin Khan when he says that this amendment is meaningless. On the other hand I find it pregnant with meaning. The meaning is that the British group is ashamed of having opposed the Government and they are now thinking out a means of going into the same lobby with them.

Mr. S. M. BOSE: May I say a few words? In my heart of hearts I am in entire sympathy with the proposal that at least Rs. 5 lakhs ought to have been granted. As one of the members of the Select Committee, if I may say that here, I was heartily in favour of this and I

can understand the strong opposition here to the acceptance of Mr. Thompson's amendment. So far as the principle goes my friend, Mr. N. K. Basu, is entirely in the right. But I am constrained to say that I am unable to vote with him on this ground that half a loaf is better than no bread. It is easier to get blood out of stone than money out of the Hon'ble Mr. Woodhead and I know, and I feel, that if we ask too much or what he considers too much we may get nothing at all. On this ground of policy I am constrained to vote in favour of this amendment.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I think the implication which my friend, Mr. N. K. Basu——

Mr. NARENDRA KUMAR BASU: Not implication, but exploitation.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: Very well, exploitation. The proviso proposed by Mr. Thompson is not what has been explained by Mr. Basu. It has a sound meaning. It gives the Board some right to make representation to the Government. Doubtless the clause is there where it says that the amount will not be less than a certain figure. At the same time it gives the Board a sort of additional stimulus in order to force Government to raise the amount, and such being the case I am equally with everybody in the House desirous to see that the Board should have such money as may be possible. I accept the amendment proposed by Mr. Thompson.

Mr. PRESIDENT: I draw the attention of the House to clause 87 of the Bill. The motion before the House is that after clause 87 the following proviso be added, namely:—

"Provided that on the representation of the Board or otherwise, the Local Government may raise its contribution to any sum larger than the amount provided in this section."

The motion being put, a division was taken with the following result:—

AYES.

Ahmed, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ashworth, Mr. G. G.
Bakali, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Surat Chandra.
Banerji, Rai Bahadur Satindra Nath.
Barua, Rai Sahib Panchanan.
Barman, Babu Promhari.
Bhuiyan, Khan Sahib Maulvi Muhammad.
Birkmyre, Mr. H.
Bottomley, Mr. J. M.
Burn, Mr. M. M.
Chaudhuri, Maulvi Syed Ogmas Haider.

Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Dutt, Mr. G. S.
Edgley, Mr. R. G. A.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghose, the Hon'ble Sir Charu Chunder.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildar.
Gilchrist, Mr. R. R.
Gladding, Mr. D.
Ruhe, Mr. P. R.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hussain, Maulvi Latafat.
Khan, Mr. Razaur Rahman.
Martin, Mr. C. M.
Mason, Mr. G. A.
Miller, Mr. C. C.
Mitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Mullick, Mr. Mahendra Behary.
Nag, Reverend B. A.
Nundy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nicholl, Mr. G. K.
Raheem, Mr. A.
Rahman, Mr. A. F. M. Abdur-
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray Chowdhury, Mr. K. C.
Ray Chowdhury, Babu Satish Chandra.
Reid, the Hon'ble Mr. R. N.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, Mr. S. N.
Sandstullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarker, Rai Bahadur Rabati Mohan.
Sen, Rai Sahib Akshoy Kumar.
Sen, Mr. S. N.
Singha, Mr. Arun Chandra.
Stuart, Mr. J. W. H.
Suhrawardy, Mr. H. S.
Sumner, Mr. C. R.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Williams, Mr. A. DeC.

NOES.

Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Babu Kishori Mohan.
Chowdhuri, Maulvi Abdul Ghani.
Chowdhury, Maulvi Rural Absar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Kasem, Maulvi Abul.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Mukhopadhyaya, Rai Sahib Sarat Chandra.
Nag, Babu Sah Lal.
Quasem, Maulvi Abdul.
Rai Mahasai, Manindra Deb.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Hemanta.
Roy, Babu Jitendra Nath.
Ray, Chaudhuri, Babu Hem Chandra.
Sen Gupta, Dr. Naresh Chandra.
Sulaiman, Maulvi Muhammad.

The "Ayes" being 63 and "Noes" 22, the motion was carried.

The motion that clause 87, as amended in the Council, stand part of the Bill being put, a division was taken with the following result.

AYES.

Ahsworth, Mr. G. B
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Satindra Nath.
Burma, Rai Sahib Panchanan.
Barman, Babu Promhari.
Bazir Uddin, Khan Sahib Maulvi Mohammad.
Birkmyre, Mr. H.
Bottomley, Mr. J. M.
Bose, Mr. N. N.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Dutt, Rai Bahadur Dr. Haridhan.
Dutt, Mr. G. S.
Edgley, Mr. R. G. A.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghose, the Hon'ble Sir Charu Chunder.
Ghuznavi, the Hon'ble Alhagji Nawab Bahadur Sir Abdelkerim, of Dildar.
Gilchrist, Mr. R. R.
Gladding, Mr. D.
Ruhe, Mr. P. R.
Hogg, Mr. G. P.
Hussain, Maulvi Latafat.
Khan, Mr. Razaur Rahman.
Law, Mr. Surendra Nath.
Martin, Mr. C. M.
Mason, Mr. G.A.
Miller, Mr. C. C.

Miller, Mr. S. G.
Mitra, Babu Saral Chandra.
Mullick, Mr. Mukunda Behary.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nicholl, Mr. G. K.
Qasem, Maulvi Abul.
Raheem, Mr. A.
Rahman, Mr. A. F. M. Abdur-
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray Chaudhuri, Mr. K. C.
Ray Chowdhury, Babu Satish Chandra.
Reid, the Hon'ble Mr. R. N.
Roy, Mr. Saileswar Singh.
Roy, Mr. Saral Kumar.
Roy, Mr. S. N.
Roy Choudhuri, Babu Nem Chandra.
Sadaatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarkar, Rai Bahadur Rebati Mohan.
Sen, Mr. B. R.
Singha, Mr. Arun Chandra.
Steven, Mr. J. W. R.
Suhrawardy, Mr. H. S.
Sumner, Mr. C. R.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Williams, Mr. A. DeC.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Fazlullah, Maulvi Muhammad.
Kasem, Maulvi Abul.
Maiti, Mr. R.
Momin, Khan Bahadur Muhammad Abdul.
Rai Mahasai, Maniendra Deb.
Rout, Babu Nagendra.
Roy, Babu Jitendra Nath.
Sulaiman, Maulvi Muhammad.

The "Ayes" being 64 and the "Noes" 12, the motion was carried.

(At this stage the House adjourned for prayer.)

(After adjournment.)

The motion that clause 88 stand part of the Bill was put and agreed to.

Clause 89.

Maulvi SYED MAJID BAKSH: Sir, I beg to move that clause 89 be omitted.

This clause reads thus: "If this Act is directed to come into force during a quarter, the first instalment of the contribution payable under section 87 shall bear such proportion to the sum payable thereunder as the unexpired portion of that quarter bears to the whole quarter." Sir, much has been said about the niggardliness of Government. I suggest to Government not to follow that path any more and not to be niggardly. If the Trust really comes into existence during a quarter, it should get the contribution for the whole period.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dildoar: Sir, I must bow to the judgment of the Select Committee who in their wisdom decided that this clause should remain. Therefore I oppose the motion.

The motion was put and lost.

The motion that clauses 90 and 92 to 96 stand part of the Bill was put and agreed to.

Clause 97.

Mr. L. R. FAWCUS: I beg to move that for clause 97 the following clause shall be substituted:—

"97. (*1*) All moneys payable to the Board shall be received by the Chairman, and shall forthwith be paid into the Imperial Bank of India or a branch thereof or into a Government treasury to the credit of an account to be called 'The Bengal Waterways Board Fund'.

(*2*) The Chairman may, on behalf of, and with the sanction of, the Board transfer any money at the credit of the said account between the Imperial Bank of India, such of its branches and such Government treasuries as the Board may, from time to time, determine."

Sir, the object of this amendment is simply to enable the Chairman of the Trust to place at the credit of a Waterways Executive Engineer such sum as may be necessary for him to draw from any Government treasury or the branch of Imperial Bank. This is exactly what the Select Committee wanted to effect in their report on clause 100 and may accordingly be drafted, provisionally clause 100 as it stands; that draft has now been scrutinised both by the Finance Department of Government and by the Accountant-General in detail, and we have been advised by both of them that the object of the Select Committee will be best attained by adopting this amendment and amendments Nos. 309 to 311 and 320 which I propose to move hereafter. There is also a subsidiary object that all monies received by the Trust can be credited in any Government treasury as well as in the Imperial Bank.

The motion was then put and agreed to.

The motion that clause 97, as amended, and clause 98 stand part of the Bill was then put and agreed to.

Clause 99.

Mr. L. R. FAWCUS: I beg formally to move that in sub-clause (*1*) of clause 99 in lines 1 and 2, for the words "the Imperial Bank of India" the words "the Imperial Bank of India or any of its branches or a Government treasury" be substituted.

The motion was then put and agreed to.

The motion that clause 99, as amended, stand part of the Bill was then put and agreed to.

Clause 100.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I beg formally to move that for clause 100, the following clause be substituted, namely:—

"100. (*1*) All orders for making any transfer under sub-section (*2*) of section 97 or for making any deposit, investment, withdrawal or disposal under section 98 shall be signed—

(*a*) by the Chairman and the Secretary to the Board, or

(*b*) in the event of the illness or occasional absence from Calcutta of the Chairman or the Secretary, then by the Secretary or the Chairman, as the case may be, and by a Trustee other than the Chairman.

(*2*) All cheques referred to in section 99 shall be signed—

(*a*) by the Chairman and the Secretary to the Board, or

(*b*) in the event of the illness or occasional absence from Calcutta of the Chairman or the Secretary, then by the Secretary or the Chairman, as the case may be, and by a Trustee other than the Chairman, or

(*c*) in the case of payments which a Waterways Executive Engineer or other officer of the Board may make under rules made under section 119, then by such Engineer or officer, as the case may be."

The motion was then put and agreed to.

The motion that clause 100, as amended, stand part of the Bill was put and agreed to.

Clause 101.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I formally move that in clause 101, line 2, after the word "Secretary" the words "or a Waterways Executive Engineer" be inserted.

The motion was then put and agreed to.

The motion that clause 101, as amended, stand part of the Bill was then put and agreed to.

Clause 102.

Khan Bahadur Maulvi AZIZUL HAQUE: With your permission, Sir, may I make a verbal alteration in this amendment and move that after clause 102(*bb*) the following be inserted, namely:—

"(*bbb*) All grants made to the District Committees for carrying out the purposes of this Act."

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: I accept the amendment.

The motion was then put and agreed to.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: I beg formally to move that in sub-clause (*d*) of clause 102(*1*), in the last line, for the words "charged to temporary work" the words "directly charged to work" be substituted.

The motion was then put and agreed to.

Khan Bahadur Maulvi AZIZUL HAQUE: I beg to move that to clause 102(*1*)(*e*), the following be added, namely:—"and by the District Committee."

It means that the office expenses of the District Committees should also be included in the cost of management.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: I accept the amendment.

The motion was then put and agreed to.

The motion that clause 102, as amended, and clauses 103-118 stand part of the Bill was then put and agreed to.

Clause 119.

Maulvi ABUL QUASEM: Sir, with your permission I should like to move amendments Nos. 316 and 317 together, because they relate to the same sub-clause. I formally move that in clause 119(*2*)(*hh*), line 1, for the words "a member is" the words "members are" be substituted, and that in clause 109(*2*)(*hh*), line 2, for the word, brackets and letter "clause (*g*)" the words, brackets and letters "clauses (*f*) and (*g*)" be substituted.

I also move amendment No. 318 which is consequential. It runs thus: "that in clause 119(*2*), after sub-clause (*hhhh*), the following new sub-clause be inserted, namely:—

"(*hhhhh*) regulating the conduct of business and proceedings of the District Committee under section 491."

Mr. L. R. FAWCUS: Government are prepared to accept amendment No. 316. As regards amendments Nos. 317 and 318, they are consequential to what has been accepted by the House, provided that, as the mover desires, the words "clauses (*e*) and (*f*)" in No. 317 are rectified to clauses (*f*) and (*g*). I, therefore, accept them.

The motions were then put and agreed to.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I beg formally to move that for sub-clause (*kk*) of clause 119(2) the following sub-clause be substituted, namely:—

"(*kk*) prescribing the payments which may be made by a Waterways Executive Engineer or other officer under section 100."

It is consequential.

The motion was then put and agreed to.

The motion that clause 119, as amended, and clauses 120-125 stand part of the Bill was then put and agreed to.

The motion that clauses 126-135 stand part of the Bill was then put and agreed to.

Clause 136.

Mr. SARAT KUMAR ROY: With your permission, Sir, I formally move the following two amendments together:—

To move that in clause 136(2) in the last line, the words "whose decision shall be final" be omitted.

To move that in clause 136, after sub-clause (2), the following sub-clause be added, namely:—

"(3) Notwithstanding anything contained in this Act, any party dissatisfied with the decision of the Board, may refer the matter to the civil court having jurisdiction in the matter."

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: Sir, I am inclined to leave these two amendments to the wisdom of the House. I am in a difficult position. Neither do I oppose them nor can I accept them. I am, however, willing to abide by the decision of the House.

The motions were then put and agreed to.

The motion that clause 136, as amended, and clauses 137 to 139 stand part of the Bill was then put and agreed to.

Clause 140.

Mr. SARAT KUMAR ROY: I beg to move that in clause 140, lines 5 and 6, the words "with simple imprisonment which may extend to one month or" and in line 7, the words "or with both" be omitted.

Sir, I think I am not very far wrong to say that the offence contemplated by this section will generally be committed by individuals in

connection with an exercise of his private rights of property. Evidently, in such cases, it cannot be said that he is guilty of any moral turpitude in his conduct.

It may so happen that a cultivator goes on ploughing or hoeing his fields on the bank of a river or cutting it for letting in water on his fields. This may be deemed by an over-zealous officer of the Trust as causing damage to the banks of the waterways, etc.; or suppose another person in exercise of his fishery rights, puts fishing baskets or floating nets, etc., on the waterways. The officer of the Trust may think this to be tantamount to causing obstruction to navigation, and he may prosecute the man for such offence. Sir, in such cases, the culprit can hardly be accused of guilty of doing an illegal act.

But, Sir, all the same, he may be punished with imprisonment. Undoubtedly, the mode of punishment provided for in the Bill,—namely, imprisonment, cannot be deemed here to be the proper mode. Sir, if there had been only a few waterways specially reserved for purpose of navigation then I could have understood the desirability of such a penal clause, but when the waterways throughout the Presidency of Bengal are going to be included within the purview of this Bill, I submit, Sir, it will be an injustice if you penalise people merely perhaps for exercising their legal rights, such as I have pointed out above. However, Sir, if it is thought necessary to inflict any deterrent punishment at all, I think a light fine only, ought to suffice.

Mr. NARENDRA KUMAR BASU: Sir, I rise to oppose the amendment of my friend, Mr. S. K. Roy. It seems to me that any person who wilfully causes any obstruction to any line of navigation does indeed commit an offence, which may be serious in certain cases and should be punished with simple imprisonment for one month. It is not, however, obligatory to pass this sentence in the cases pointed out by Mr. Roy. A waterways officer may be over-zealous but a magistrate will not be vindictive; in any case there will be many instances where it will not be necessary to inflict such punishment. Besides, the sentence as provided in the Bill is not very severe at all.

Mr. L. R. FAWCUS: Sir, Government oppose the amendment for the same reasons as have been put forward by Mr. Narendra Kumar Basu.

The motion was put and lost.

The motion that clauses 140, 141, 142 and 143 stand part of the Bill was put and agreed to.

Clause 143A.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 143A (*1*)(*ii*), sub-clauses (*a*) and (*b*) be omitted.

The sub-clauses are that if in the opinion of the Local Government the Board exceed or abuse their powers, or persistently make default in the performance of any of the duties imposed on them by this Act, the Local Government may, by an order in writing, take all or any of the following actions, namely:—

(*a*) cancel any resolution or order of the Board which is contrary to the provisions of this Act;

(*b*) withhold for such period as it thinks fit the contribution payable to the Board under section 87.

Sir, when a public body constituted under an Act disobeys the Local Government the proper course for it is to supersede that body, as is done in cases of local bodies. It will create a lot of difficulty and confusion if the Board passes resolutions and the Local Government cancels them and then withholds the payment of money; that is rather serious and will interfere with the activities of the Board. If it is the trustees who are guilty, they may be punished; but there is no justification for punishing the Board for the misdeeds of a member of the Board or for curtailing the activities of the Board.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: I formally oppose the motion, Sir.

The motion was put and lost.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 143A(*1*)(*a*), sub-clause (*c*) be omitted.

Sub-section (*3*) runs thus:—

"At any time before the expiration of the period of supersession specified in the order, or on the expiration of such period, the Local Government may reconstitute the Board by a fresh election and fresh appointment, and any of the Trustees who vacated their offices under clause (*a*) of sub-section (*2*) may be declared by an order of the Local Government to be disqualified for election or appointment."

I think, Sir, that at the end of such period the Board may be reconstituted by a fresh election but the disqualification of trustees from further election or appointment would be going too far and should not be made a part of the Bill.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: I beg to oppose this amendment as the mover has failed to convince me of the necessity of his amendment.

Mr. NARENDRA KUMAR BASU: I think the Hon'ble Member has not been pleased to follow the mover's speech. If he had done so, he would have seen that what the mover means is that Government have already got in the previous provisions of the Bill provisions which deal with trustees who become disqualified or who are delinquent. Here, by this clause 143A, the Local Government are going to take to themselves power where, in their opinion the Board has exceeded or abused its powers or persistently make default in the perfofmance of its duties, to declare that any individual trustee will be suspended or removed and a fresh election held to fill up that vacancy. I think, Sir, that for taking this power to the Local Government it is rather necessary for the Hon'ble Member himself to give the House his reasons and it is not for the mover of the amendment to give any reason for the cancellation of such arbitrary, unlawful and illegal power.

Maulvi Syed Majid Bakhs's motion was put and agreed to.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, may I point out that there has been a comedy or tragedy of errors in this particular matter? My friend, Mr. Majid Baksh, was asked by you, Sir, to move amendment No. 332 but it appears that he spoke on No. 336.

Mr. PRESIDENT: There was absolutely no mistake: I distinctly remember that I called No. 332 and Maulvi Majid Baksh moved and spoke on it also.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 143A(*3*), in lines 4 to 7, the words beginning with "and any" and ending with "election or appointment" be omitted.

I have already submitted that the powers that are already vested in the Government as regards their controlling power are enough and there should be no disqualification of any trustee from further appointment or election. The offending resolution of the Trustees may be cancelled and other steps may be taken; but the power of disqualifying may be dispensed with.

Mr. L. R. FAWCUS: I think the point is that if Government is of opinion that a trustee has been bad enough to merit removal from the Board, it should follow that he should be disqualified from further election to the Board. I beg to oppose the amendment, Sir.

The motion was put and lost.

The motion that clause 143A, as amended in Council, stand part of the Bill was then put and agreed to.

Mr. L. R. FAWCUS: I beg to move that after clause 8 the following clause shall be inserted, namely:—

"8A. Notwithstanding anything contained in this Act the Local Government may issue such orders as it may consider necessary to enable the first elections referred to in sub-section (*1*), sub-section (*2*) and sub-section (*4*) of section 8 to be held after the commencement of this Act and in regard to any matter incidental and ancillary thereto."

The reason for this short-notice amendment is that while going through the Bill it was noticed that section 119(*2*) gives power to the Board to make rules, *inter alia*, regulating the election of District Board representatives. But till such representatives are elected it is not possible to constitute the Board which alone can make these rules. It has, therefore, been necessary to table this short-notice amendment in order to overcome this impasse.

The motion was put and agreed to.

Mr. PRESIDENT: The motion is that the Preamble stand part of the Bill.

I have to deal with one amendment relating to this, and that is the amendment tabled by Khan Bahadur Momin.

Mr. NARENDRA KUMAR BASU: I submit, Sir, that it is 7 p.m. now, and we adjourn; this matter may be taken up to-morrow, as it is a very important question and several speakers will speak on it.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: Sir, I beg to submit that that amendment is outside the scope of this Bill, and I want your ruling on this point.

Mr. PRESIDENT: I do not agree with you. I rule and on very good reasons that the amendment is in order in view of amendments 214 and 217 in respect of clause 43 which you accepted with the concurrence of the House. Can we finish this Bill to-day?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: Personally, I would like that it were finished to-day.

Mr. H. S. SUHRAWARDY: Sir, the matter is very important and many speakers are anxious to speak. Besides, if that amendment were taken up to-day, it would preclude congratulatory speeches.

Mr. PRESIDENT: Well, Khan Bahadur, will you take long to finish your speech?

Khan Bahadur MUHAMMAD ABDUL MOMIN: I will not take long, but I understand that there are several members who wish to speak on the matter; besides, my friend, Khan Bahadur Azizul Haque, is associated with me and the House knows what that means.

Mr. PRESIDENT: Then I better adjourn the Council now.

Adjournment.

The Council was then adjourned till 3 p.m. on Thursday, the 15th February, 1934, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Thursday, the 15th February, 1934, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the two Hon'ble Ministers, and 98 nominated and elected members. (The Hon'ble Nawab K. G. M. Faroqui and Hon'ble Sir Bijoy Prasad Singh Roy were absent.)

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Bengal Waterways Bill, 1933.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I beg to move that in the first paragraph of the preamble, in line 3, the words "for the purposes of navigation" be omitted.

Sir, when this Bill was introduced, there were many detractors, many who had misgivings, and there were some of us who were actually opposed to the Bill. But, later on, we welcomed the Bill with a certain amount of enthusiasm, and for these reasons: We welcomed it because it released the Navigation Department of the Government from the absolute control and sway of the Irrigation Department, whose activities during the last decade or so had made it thoroughly unpopular—so much so that it could no longer be tolerated. We welcomed the Bill, Sir, because it proposed to hand over the navigation policy of Government to an elected and autonomous body, which, we hoped, would not only secure representation for some of those who are interested in the improvement of Calcutta, but would also include representatives from all parts of the province. In the past the policy and activities of the Navigation Department had been mainly focussed in one direction only, *viz.*, the provision of navigation facilities to Steamer Companies plying between the eastern districts of the province and Calcutta, with the result that every other interest was neglected. We welcomed this Bill because we felt that under it would be possible for the Waterways Board not only to afford facilities to Steamer Companies, but also to look after the smaller interests, which really meant

the larger interests of the country, *viz.*, the resuscitation of dead and dying rivers and *khals* and the clearing of river-beds of all impediments —impediments which have reduced this province to a state of great indigence.

Sir, during the last two or three days many unpopular provisions have been retained in the Bill, and, what is worse, some fresh unpopular provisions have been introduced in the measure, which have to a great extent killed our enthusiasm for the Bill. Still, we want this Bill to be passed and put into the statute book, because we believe that there are great potentialities in it for doing the greatest good to the largest number of people in the province. Sir, there is nothing in this Bill which has captured one's imagination so much as the provision in clause 43 regarding the removal of water-hyacinth and the possibility of ridding the country of this pest by the Waterways Board have created great hopes in our minds. But, Sir, these potentialities for good would be very much limited if we were to agree to the inclusion of the three words which I have proposed to delete. If these three words are allowed to remain in the Bill, we can only maintain and improve the waterways only for a certain purpose—the purpose of navigation. I submit, Sir, that by retaining these three words in the Bill, we shall be limiting the scope of the Bill to an extent which materially affects its usefulness.

Sir, the resuscitation of dead and dying rivers, etc., will certainly result in facilities for navigation. But it may be contended that the maintenance of rivers which are now dead does not really require clearance for that purpose mainly. For instance, if we want to revive a dying river like the Bhairab in the district of Jessore and Chitra in the district of Nadia, and similar such other dead rvers, it may be that the Board would be exceeding its powers as these rivers are no longer really required for purposes of navigation to clear, widen, deepen, or otherwise improve existing channels may be limited to channels required for navigation. By stretching the meaning of the provisions of the Bill, perhaps one could include all sorts of projects, including the clearance of water-hyacinth even from *bhils* and cultivated lands, within the scope of the Bill, because in the eastern districts of the province, when the rains set in, even the cultivable fields are very frequently used for the navigation of small crafts. But, if we were to take it that the clearance of water-hyacinth or the removal of obstruction from dying rivers were the principal objects in these projects, it might legitimately be argued that we are acting against the provisions of the Act.

Sir, if we strictly follow the wording and spirit of the preamble, our action—I mean the action of the Board—can very well be questioned. For these reasons, Sir, I think that the utility—the usefulness—of the Bill will be very much curtailed if we allow these three

words to be retained. We, Sir, on this side of the House, would like to make it perfectly clear that we do not care overmuch whether the steamer routes are shortened or whether more facilities are secured to bring the eastern districts of the province nearer to Calcutta; what we really do care for—and that most earnestly—is the resuscitation of dead rivers and the removal of water-hyacinth from all navigable channels. If these purposes are not served, we do not care whether the Bill is passed into law or not.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I beg to support the amendment moved by my learned friend, Khan Bahadur Maulvi Muhammad Abdul Momin, which is identical with my own amendment. When I introduced, on the 24th of November, 1932, the Nadia Waterways Bill, 1932, I suggested that a statutory board might be created in the district of Nadia with the object of solving the problem of water-supply as also the resuscitation of some of the dying rivers and channels. At that time the Hon'ble Member in charge of the Irrigation Department strongly opposed the Bill at its inception. Sir, he did it on the ground that the irrigation problem of Bengal was a very difficult one and that the problems cannot be dealt with in an isolated manner. He solemnly promised to bring forward a Bill which would tackle the problem of the province as a whole. He solaced us with the further suggestion that the irrigation problem of the province could not be dealt with piecemeal. I was lulled into the belief that if an Act which embraced all the irrigation problems of the province were passed, one should not have any objection to it. Once again, Sir, on the 23rd of February, 1933, when I moved for the reference of the Bill to the Select Committee, the Hon'ble Member in charge of the Irrigation Department opposed the motion most vigorously and was successful in killing my Bill. In doing so, he said that the waterways of Bengal were in such a condition that they required a comprehensive measure.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: What page of the proceedings?

Khan Bahadur Maulvi AZIZUL HAQUE: I have not got the proceedings with me, and I am sorry that I am unable to give him the page number; but if the Hon'ble Member would refer to the appropriate volume, he would be able to find out his speech.

Sir, my Bill was undoubtedly of a mild character and my justification in introducing it—and I hope the Hon'ble Member will support me in this—was that the district of Nadia holds the key position of the West Bengal group of rivers. On one side of that district we have the Padma and on the other the Hooghly, and in between several other rivers, such as Matabhanga, Kumar, and so forth. These rivers constitute what is known as the Nadia rivers system, and when

the Irrigation Department was first started, they were included in the Nadia Rivers Division. I repeat, Sir, that this was my justification for attempting to tackle the problem in my district in the year 1932. I knew very well that if I were to ask Government to assist us with funds, there was absolutely no likelihood of any funds being earmarked for the purpose. I also knew that if a statutory board were created for a particular district, the people of that district would come forward to help Government in the matter. I think, Sir, that the Hon'ble Member knows that when the resuscitation of the Nabaganga was taken into hand, the District Board of Nadia contributed Rs. 16,000 and the Government Rs. 4,000. (THE HON'BLE ALHADJ NAWAB BAHADUR SIR ABDELKERIM GHUZNAVI, OF DILDUAR: "Question.)" I should be extremely glad, Sir, if it is proved that I am incorrect. That scheme was sponsored by villagers interested in the project, and it will, perhaps, be news to the House to hear that one Mr. Alexander Mitter, Deputy Collector, collected about 2,000 people to cut the mouth of the Nabaganga! And if the Hon'ble Member would kindly refer the matter to the local authorities, he would find from the archives of Government that the cutting was done mainly through the help of the local people. That is why I thought that some encouragement was necessary, in case a statutory board were created, so that the people of the district of Nadia might show more enthusiasm. Surely, it would have been possible at some stage to show some sympathy with my Bill, and I submit, Sir, that it would not have been very difficult at all to do this. We the people of the Nadia district attempted to tackle problems other than those concerning navigation. Unfortunately, that Bill was killed.

Sir, even apart from this unsympathetic attitude of the Hon'ble Member, what do we find? We find from the report of the Hopkyns Committee, from which the Hon'ble Member has quoted more than once, that the problems of navigation and irrigation should be separated. And while the Hopkyns Committee recommended in paragraph 73, page 17, of their report that for navigation work there should be a Waterways Board, there should be a central committee consisting of departmental heads, such as the Chief Engineer to the Irrigation Department, the Director of Agriculture, the Secretary in the Local Self-Government, and the Secretary in the Finance Departments, to assist the Hon'ble Member as regards drainage and allied matters, no action has been taken on this recommendation. The idea behind it was that while one board was dealing in a comprehensive matter with navigation problems, the other might be able to deal with drainage and such other matters. Thus, the Hopkyns Committee visualized a committee which could settle matters quickly and also secure the expert advice which is readily available. Not only that, Sir, the Hopkyns Committee also visualized in paragraph 74 that the district committees would not only function for dealing with problems

arising out of navigation, but that they would be able to co-ordinate the various efforts made in other directions. In other words, while they recommended one central committee for navigation problems, they recommended that other problems of irrigation should be dealt with by Government. Now, I should like to know from Government the fate of that statutory committee which the Hopkyns Committee visualized with a view to co-ordinating not only local efforts, but also for the purpose of improving the water-supply in the villages, tackling the drainage problem. How is it that the Hon'ble Member has not taken into consideration all these recommendations? That is why a certain amount of nervousness has been created in our minds.

Sir, I feel that this question is of great import to the economic development of the province. We are anxious whether this Bill is going to be of a restricted character. I quite realize that if we were to stick strictly to the recommendations of the Hopkyns Committee, there should be a Waterways Board purely to deal with navigational affairs. And unless and until we know what Government propose to do in this matter, I think that I am fully justified in moving this amendment, which is so very important to us. I feel sure, Sir, that the time is not far distant when Government will realize the importance of the points which I have raised.

With these few words, Sir, I resume my seat.

Dr. NARESH CHANDRA SEN GUPTA: Mr. President, Sir, I have every sympathy with the amendment which has been moved by my friend Khan Bahadur Maulvi Muhammad Abdul Momin, and supported by Khan Bahadur Maulvi Azizul Haque. But I confess that I cannot help saying at the outset that both the Khan Bahadurs are like the foolish virgins who lighted their candles late. Sir, having regard to the outlook which they have displayed with reference to this amendment, one should have expected greater enthusiasm on their part in supporting other amendments which were proposed to widen the scope of the Bill, or, at any rate, to make it possible that the other interests involved should get a hearing before the Board. Sir, I now find that Khan Bahadur Maulvi Muhammad Abdul Momin seems, to a great extent, to have been thrown off the track by the enthusiasm created, as he himself said, by the provisions of clause 43 for the clearance and destruction of water-hyacinth. It is rather hard to believe that it was that little lollypop which put my friends off their guard. But, after all, reading clause 43, I find that the little lollypop is after all a dream lollypop! Several members of this House have sought to create enthusiasm by referring to the question of water-hyacinth. If you refer to clause 43, you would find that the clause is so worded that under sub-section (*a*) the Board would have to do such

and such things to "maintain it" (*i.e.*, any channel) for the purpose of navigation.

Khan Bahadur Maulvi AZIZUL HAQUE: But that has been changed. If my friend had been present at the time, he would have found that it has been deleted.

Dr. NARESH CHANDRA SEN GUPTA: But this has not been deleted: "Where there are navigable channels under the control and administration of the Board," so where there are no navigable channels under the control of the Board, I am quite certain that water-hyacinth will not be cleared. And, Sir, if you look at clause 42 of the Bill, you will find that "no navigable channel within such limits as may have been declared under the Indian Ports Act, 1908, to be the limits of the Port of Calcutta, and of the navigable river and channels leading to the said port, shall be placed under the control and administration of the Board." Therefore, Sir, the water-hyacinth problem is not in any case going to be tackled by this Board in a comprehensive manner. The Khan Bahadurs know very well that the water-hyacinth problem cannot be tackled at all, unless it is done thoroughly, *i.e.*, not only in the navigable channels but also in all the districts together. Otherwise, you will never be able to eradicate this pest and the problem of getting rid of this will recede into the background So, Sir, I think that this lollypop is nothing but a dream lollypop. In spite of all this, I am of opinion, that this amendment ought to be accepted because the clause, as it stands, unduly restricts the scope of the operation of the Waterways Board. Further, I submit, Sir, that numerous provisions will be found in the Bill giving powers to the Board which cannot be exercised by reason of this clause in the preamble.

The Hon'ble Member has referred not only more than once, as the Khan Bahadur says, but more than many times to the Hopkyns Committee Report. I do not know, however, whether the Hon'ble Member is as familiar with that report as he ought to be: If he will read one portion of the report he will find that one of the reasons for which the proposals for the establishment of the Waterways Board is made is that the separation of these lines between the irrigation, drainage work and navigation work will lead to the most economical territorial distribution of the work. Because, they say, "dealing in order with the four geographical divisions of Bengal, the potentialities of Northern Bengal are almost unknown, but it is probable that the main problems which will arise will be connected with irrigation and drainage. In Western Bengal irrigation, drainage and embankments are all of great importance, while in Central Bengal drainage, if flushing be included in the term, is the predominant interest. In Eastern Bengal fortunately,

embankments are rare, and there is only one maintained by the Irrigation Department. There is at present little demand for irrigation and that only in limited areas. There is a demand for drainage, but this is chiefly for the restoration of old channels in order that water may flow and boats may pass. Navigation is the subject upon which attention is mainly focussed."

Well, I take it that by the creation of this Waterways Board this territorial division is going to be given effect to, that is to say that so far as the waters of Western Bengal, Central Bengal and Northern Bengal are concerned, they are to remain in the hands of the Irrigation Department, while the Waterways Board should take charge of the waters of Eastern Bengal. I take it that the effect of this would be that there would be nobody else to do anything with the waters of Eastern Bengal for any other purpose. The result will be that the Irrigation Department will wash its hands of any questions relating to the waters of Eastern Bengal. The Waterways Board, which is formed and which will take charge of the waters of Eastern Bengal, will have nothing to do with anything except for the purpose of navigation. Well, how are the other problems of Eastern Bengal to be solved and except in so far as any project helps in the development of navigable channels for the purpose of navigation, this Board would have no power to do anything. Well, may I once more draw the attention of the Hon'ble Member to the findings of the Hopkyns Committee in another place in which they observed in connection with the drainage question that——

"Before, however, such action can safely be taken, a complete hydraulic survey of the rivers in the districts in question is required, as is also a contoured map of the portion of them through which the Nadia rivers flow. There is grave danger in dealing with questions of this nature piecemeal; the problem of drainage in Central Bengal must be regarded as a whole."

If the Hopkyns Committee is right in its conclusions, it also follows that the problem of drainage and waterways of all Bengal must also be solved as a whole. Well, if you want to separate the two by putting the Eastern Bengal portion in charge of the Waterways Board, and the Western Bengal portion in charge of the Irrigation Department, even then the whole thing must be dealt with as a whole. The waterways of Eastern Bengal cannot be dealt with unless you take full account of the question of drainage and sanitation and agriculture which are involved with it. The Hon'ble Member comes from Eastern Bengal, from an area intersected by a number of river channels, the same area from which I also come, and he knows very well how many numerous channels will have to be affected, if, for instance, the waterways of the Lohajang river is to be developed.

Well, how can the Waterways Board deal with the Lohajang river in Tangail, without laying under contribution all the rivers and rivulets that lead from or to it. In connection with these channels, numerous problems will arise. The Hon'ble Member knows very well, that as a result of the earthquake of 1897, the numerous water channels were blocked resulting in epidemic in the country in every part of Tangail. Therefore, these problems will have to be taken into consideration and have got to be dealt with. If you confine the Waterways Board solely to problems of navigation, these things cannot be attended to by the Waterways Board.

For this reason I would strongly support the amendment moved by Khan Bahadur M. A. Momin.

Babu SATISH CHANDRA RAY CHOWDHURY: I undoubtedly subscribe to the view that there should be one comprehensive scheme for improving the waterways in Bengal. As a matter of fact, we have not only to look to navigation but to our drainage and sanitary condition as a whole. But it seems to me that the idea behind the Bill is to tax only a particular section of the people and only those persons who are using certain particular channels with a view to improving facilities for transport and other similar causes. If the financial causes were otherwise, I would have no hesitation to lending my support to the amendment. But looking to the financial proposal, I find that the revenue comes from two sources—one the Government is to make contribution and the least said about that the better, because that contribution I think is very small and it cannot go far in improving waterways. The only other source we have to consider is the vessels which will be used along the route of navigation. Having got revenue from these two sources, I think it would be a breach of trust, if that income were diverted to purposes for which they were not meant. I may mention here that if the object is to include in the purview of this Bill the improvement of drains which are used only as drains and not for the purposes of navigation, in that case there ought to be revenue forthcoming from other sources. My friend, Dr. Sen Gupta has mentioned the fact that many of the areas in different parts of Bengal, specially Eastern Bengal, have suffered very much on account of earthquake and many waterways were silted up and cause very great harm in respect of health as well as navigation. I think that the Bill, as it stands, does not at all prevent the taking up of those waters which have been silted up on account of earthquake because we know that new works may be undertaken as well as old rivers may be resuscitated, so that the present Bill, as it is, will not prevent the taking up of those rivers. The question of Eastern Bengal, as far as my experience goes, is, I submit without fear of

challenge, that the problem of navigation in the sense in which it has been used in the Bill, is the problem we have to deal with. In the Bill the word navigation has been given an extended meaning by including in navigable waters a channel, even *khals*, *bhils*, and *nullas* even only provided they are used in any part of the year by any kind of vessel. That being clear, it ought not to be forgotten that the operation of this Bill will not only cover the rivers but also cover smaller *khals* and big drains as well. In Eastern Bengal the problem of drainage is identical with the problem of navigation, because we have *bhils*, *khals* and small streams along which navigation follows. The main streams ought to be resuscitated, that is, the dead and the dying streams and *khals* which used at one time to bring health and prosperity to the remote villages. If the purpose is diverted, if the revenue which is levied for one purpose is diverted for the purpose of pure drainage, by not keeping the object clearly in view, and if as a matter of fact it is not kept or reserved for the main purposes of the Bill, in that case a great injustice will be done to those persons who have got to pay the tax. He who pays the piper is entitled to call the tune. We are going against the fundamental principle of taxation. If it was the real intention of the Hon'ble Member to have one comprehensive scheme and one comprehensive board, in that case this Bill ought to have been thrown out at the beginning and ought not to have been considered at all by the House or the Select Committee. It is clear to everyone that the idea which is now challenged is not only in the preamble but in section by section—everyone understands that there is no mistake about the fact that the one idea permeating the Bill is that the particular taxation would be used for the purpose of improving particular waterways. I do not hold a brief for the Steamer Companies. If the Board is a responsible board, there is no reason why it should not deal fairly and squarely with all claimants. If the revenue is properly distributed, there need be no fear of diverting the whole money for the benefit of particular waterways or for particular career companies. There ought not to be any real conflict between the interest of the Steamer Company and that of the public, because it is not the Steamer Company who will pay the money out of the dividends, but practically the people who use the Steamer Service who will have to pay. So, primarily it is in the interest of the people that the main waterways should be kept fully alive. So far as these proposals are concerned, I think it would be well to keep them confined within the proposed limits. If hereafter it becomes necessary to bring into existence a more comprehensive scheme and a more comprehensive board, there would be no difficulty in introducing any such measure. So, having this difficulty in view, I have no hesitation in opposing the amendment which I would have supported heartily if the whole scheme was otherwise and the Hon'ble Member had been alive to the situation from the beginning.

Khan Bahadur Maulvi AZIZUL HAQUE: On a point of order, Sir. It was your ruling that the preamble should be discussed afterwards. In view of that, is the hon'ble member justified in criticising that we did not look up the Act or the preamble?

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, taking into account the provisions as they are, I submit it will not serve the purpose of my friend even if this proposed portion is deleted. Because the purpose remains embedded in the other portions of the Bill. So even by removing these words the Bill will not be as comprehensive as the hon'ble member would like it to be.

Maulvi ABUL KASEM: Sir, I rise to support this amendment, and I do so entirely on parochial reasons. If this amendment be not carried, the result will be that so far as this legislation is concerned, the waterways of the Burdwan Division will not in the least be affected. We, the people of Burdwan, suffer under great misfortune, and all our misfortune is due solely, wholly and entirely to the conduct of Government. Sir, Burdwan was at one time not only one of the most healthiest places, but it was at the same time the most fertile land in the whole of Bengal, and why was it so? Because during the Moghul period we had our water channels, drainage and irrigation schemes and for that very reason we were healthy people, we were rich in cultivation and the result was that we had to pay a penalty for 150 years by overtaxation. Sir, we the people of Burdwan, contribute to the provincial revenues from the permanently-settled estates Rs. 32 lakhs a year, whereas the districts of Faridpur, Bakarganj, Mymensingh and Dacca, whose area we can well understand, pay only Rs. 26 lakhs. (Question.) Well, that is from the Board of Revenue reports. We have suffered because all our waterways have been blocked up and why? Because the Government thought at that time in their love for the city of Calcutta and its interests that the mouths of the waterfalls should be blocked because too much sand should not be allowed to pass through them to the Ganges, as that would affect the interests of the port and therefore the whole Burdwan Division must suffer. Now, in spite of all this, we have got a Bill for the improvement of the waterways which I understood, and as has been stated by Dr. Naresh Chandra Sen Gupta, was recommended by the Hopkyns Committee for the improvement of agriculture and drainage of the country. So, that has been overlooked by limiting the scope of the Bill primarily to navigation purposes. Not a single river in the Burdwan Division can be used for navigation purposes, but we have been taxed for the benefit of the rest of Bengal for 150 years. We have been taxed recently for the improvement of Calcutta, and we are going to be taxed for the improvement of the navigable areas of distant lands, whereas in the meantime, heavily taxed as we are, we suffer from malaria and other diseases and

our agricultural lands have deteriorated. We hear a good deal about rural development and agricultural improvement and the love which is shown for these things, but in actual practice we are a neglected people, particularly the people of the Burdwan Division. Therefore, Sir, I enter my emphatic protest against any piece of legislation and any action of Government which will exclude the people of the Burdwan Division from the beneficent effect of this Waterways Bill. If the Bill is to effect any improvement in the waterways of the province, I think the whole province should be included within its operation. Of course, it will rest with the Waterways Board and Government to consider what schemes should be taken in hand, but unfortunately in this legislation you are practically limiting its scope to certain portions of the province only. I have my suspicion that even if this amendment be carried, the result will be all the same; we will be neglected, but then there will be some hope that something may be done for our waterways. But as it is, the door is going to be closed by an act of the Legislature for ever. Therefore, I support the amendment, and I hope Government will accept it. One reason is that Government does not lose anything if the words are omitted. If we retain the words "for the purpose of navigation," then we shall be limiting the scope of the Bill to particular classes of waterways. It would seem that the intention of Government is only to benefit the people of East Bengal and not the rest of Bengal. We know we suffer under a great disadvantage; we are not only in a minority in the House, but we have little voice in the government of the country and in future we shall have no voice. Therefore, I appeal to the Hon'ble Member to accept this amendment.

Mr. NARENDRA KUMAR BASU: Sir, when this Bill was being introduced in this Council, I for one welcomed it and I had hopes that, as the Hon'ble Member in introducing the Bill had said, at last the dead and dying rivers of Bengal, with which were interlocked the health and wealth of the masses of the Bengal peasantry, would have somebody to look after them. I congratulated him when he introduced this Bill on having made a new departure in the history of the Government departments. As we are all aware, for very many years past all the available resources of the Irrigation Department have been spent on the lines of navigation. I do not know—the Hon'ble Member is in a better position to give us the exact figure—I do not know how many crores of rupees from poor Bengal have been spent for the purposes of navigation alone: how many dredgers, how many *khals*, how many trunk canals have been projected, attempted to be carried out, and money of the poor peasants of Bengal squandered in these schemes. When the Hon'ble Member came out with his project of a Waterways Bill with a new vista for the peasantry of Bengal and with the gospel of St. Hopkyns in his hand, I for one thought that

there would be some improvement in the condition of the people of Bengal. I am not talking of the people of Mymensingh or the people of the Burdwan Division or even of my districts of choice and birth—Nadia and Jessore. 'I am speaking of the whole of Bengal. I thought that there would be one measure at least brought by a Government member which would really look to the interests of the people, and I for one wanted to sing Hallelujah in praise of the Hon'ble Member. But the activities of the department during the last few days have been a rude eye-opener to me. It appears to me that all this loud talk of serving the people and the country is clap-trap. (Question.) I will prove it. If all that this Bill is going to do is to set up a board to look after navigation only and for no other purpose, then what is the difference between the misguided activities of the Irrigation Department for the last 50 years and the present misguided Bill of the Hon'ble Member. Sir, we have been told solemnly by a lawyer in this part of the House that because certain interests are to be taxed under the Bill, therefore to spend any amount from that taxation on any other purpose, cognate or otherwise, would be a breach of trust. Strange doctrine indeed! I would ask the Hon'ble Member to remember that from litigation alone and from land revenue alone all the other activities of Government are carried out. I ask—is it a breach of trust to the litigants that the money paid by them goes to improve the health, the education and other departments of Government? I submit, Sir, my friend's ideas of breach of trust are rather crude and antiquated. Sir, I submit that the interests of the people—the masses—who have been the victims of poverty, malaria, and other fell diseases for a long time on account of the neglect of the rivers and the neglect of the drainage of the country for a long long time are more important than the interests of those who will pay taxes to be imposed by this Bill. And, moreover, Sir, are these taxes to be paid by the Steamer Companies? Will they bring the money from the pockets of the shareholders? No, Sir. The money is to be paid by those who entrust their freights to the Steamer Companies and they are the people of the country; and if any money raised by the Waterways Trust is spent for the purpose of bettering the condition of those people, it is not only not a breach of trust but it is spending the money for the benefit of those from whom it is received. I submit, Sir, there is no question of any breach of trust in this case. As we have already heard here, unless these words are deleted from the preamble, what will be the meaning of that other clause, I mean clause 42, which contains the words "for the purposes of this Act?" Whether we should have those words in that clause or not, if these words "for the purposes of navigation" are retained in the preamble, then the words "for the purposes of this Act" would mean for the purposes of navigation alone. Then probably it will be open to a member from Mymensingh rightly to criticise the other official and non-official

members from Mymensingh and to say that it is a case of breach of trust; this is not for the purposes of navigation and, therefore, not for the purposes of this Act, and so you cannot spend a single pice for the purpose of bettering the condition of the people. It is absolutely necessary in the interests of the people that these words should be deleted from the preamble in order to give even a modicum of hope to the people for whom the Hon'ble Member professes to speak. Sir, we have heard of the best intentions of the Hon'ble Member so far as the people of the country are concerned. We know that his intentions are good. But unfortunately no member of Government is permanent, and so far as we can judge, there is very little likelihood of this Bill, if passed into Act, being brought into operation in the near future or in the normal course of the official life of the Hon'ble Member. I am sure the Hon'ble Member cannot speak for his successor, and I am sure that, having the good of the country at his heart, he will agree to delete these words so that his successor, if he is not so kind as he himself is, may not be able to say "my hands are bound by the words which my predecessor has passed and I cannot help it."

Mr. SATYA KINKAR SAHANA: Mr. President, Sir, I give my wholehearted support to the amendments moved by Khan Bahadur Abdul Momin and Khan Bahadur Azizul Haque. Sir, only the other day a friend of mine succeeded in convincing me that logic is as fickle as fortune's wheel, that it is as changeable as the chameleon, and that it can be hired to serve any master. So, Sir, I offer no arguments. I only try to state some facts. They say facts are weightier than arguments.

Sir, the name of the Bill which is before the House is "The Bengal Waterways Bill, 1933." Here the words "Bengal Waterways" are not qualified by any adjective not cribbed, cabined and confined by any qualifying clause, but are broad enough to embrace all the waterways of the province, the waterways of dry Bankura not excepted. But in the preamble the qualifying clause creeps in, limiting the scope of the Bill to the navigable waterways. The insertion of the clause "for the purposes of navigation" on the face of it seems to be a mistake and an anomaly. Had the object of the Bill been only to take the navigable waterways under its protection, the name of the Bill should have been "The Bengal Navigable Waterways Bill"—the adjective "navigable" was not wanting in the English dictionary. Then, Sir, this House would have been able to give a proper consideration to such a Navigable Waterways Bill. Sir, if the words "for the purposes of navigation" be allowed to stand in the preamble, the dead and dying rivers of West Bengal will be given the reprehensible *duoram* treatment. Sir, no sensible Steamer Companies will think of plying their steam vessels over the waterways of West Bengal

at present; but their present condition is not what nature intended for them; they were navigable in the past, it is man's lust for lucre that has brought them to their present unnatural condition.

Sir, our Bengalee language has arranged our rivers in two different classes according to their sexes—the নদ and নদী—the male rivers and the female rivers, the male rivers being more turbulent than the female rivers. Sir, some of the well-known male rivers are the Ajay, the Damodar, the Darkeswar, the Khari, the Banka, and the female rivers are the Bhagirathi, the Swaraswati, the Sifabati or Silai, the Kunari Kangsabati or Kansai Kumari or Cossye as she has become now, the Gandheswari and Sali. Sir, all these rivers are non-navigable now—the beds of some of them have been raised by a deposit of 30 to 40 feet of sand. But they were not so in the past; they were navigable and useful rivers distributing health and prosperity to the country.

Sir, Kabikankan Mukundaram flourished about 450 years ago. His hero, Srimanta Sadagar, floated his ডিঙ্গা (sea-going vessel) loaded with merchandise, for Singhal Pattan, on the river Ajoy near a place called Ujani—now called Ujani Mangalkote—not far away from the village home of Khan Bahadur Abdul Momin and the nestor of our house, Maulvi Abul Kasem. Sir, in the মনসামঙ্গল of কেতু কাদাম we find that Behula plied her craft laden with the body of her dead husband over Gangni or Gangur—the only trace of the name of which river is retained in a corrupt form in Gangpur—a railway station between Burdwan and Saktigarh. Further, we find there that Behula plying over Banka, Damodar and other rivers entered the mouth of the Bhagirathi—the কালীদহ of our old poets. Sir, only two hundred years before Ghanaram, the author of Dharmamangal, made his hero Lausen ply his vessel on the Dwarakeswar river and anchor it at different *ghâts* of the river. Though the names of those *ghâts* are still retained, no vessels nowadays put down their anchors for meals and rest during the night.

Sir, if those facts be considered as the outcome of the soaring imaginations of poets and semi-mythical, I will venture to mention a few facts within the British period and almost within a century and a half. When the Raniganj coalfield was first tapped, there were no railways in the land, all the coal produced in the Raniganj collieries used to be carried on country-boats over the Damodar to Calcutta. Sir, the indigo-planters of Bankura, the Chritieus, Cheeks and Andersons used to transport their articles to Calcutta on country-boats over the Dwarakeswar river and the traders of Sonamukhi which was the greatest centre of the lac industry of that time used to send their packages on country-boats over the Sali river.

Sir, only sixty years before, poet Hem Chandra Bandapadhya wrote "বঙ্গে সুবিখ্যাত দামোদর ও নদ, ক্ষীর সম স্বাদু নীর" and about fifty years before I saw with my own eyes country-boats or *mahajani noukas* plying over the Damodar up to Raniganj—the Mejhia *ghât*. About 60 years before, Dinabandhu Mitter in his Suradhuni Kavya wrote that Ajoy and Damodar like two mighty warriors dressed in red robes rushed to offer their homage to Suradhuni—the Bhagirathi. Sir, then no Nawab could think of cutting cheap jokes about the waterways of Bankura, Birbhum or Burdwan.

Sir, the navigable conditions of those rivers not only facilitated transport, but spread health and prosperity in the country. Only half a century ago many parts of West Bengal were as healthy as any part of Bihar and Chota Nagpur.

If the object of the Government be to bring back health and prosperity to the province, I would venture to suggest to the Hon'ble Member in charge of the Bill not to put this bar of untouchability on the waterways of West Bengal, but to make us retain the hope of getting them back to the fold of high caste navigability.

With these words, Sir, I support the amendments moved by the Khan Bahadurs

Babu KHETTER MOHAN RAY: Sir, I am also in agreement with my hon'ble friends who demand that the scope of the Bill should be wider than that proposed in the Bill.

Mr. PRESIDENT: Do you mean to say that this amendment is not within the scope of the Bill?

Babu KHETTER MOHAN RAY: Yes, Sir.

Mr. PRESIDENT: How can you say so? Please leave that aspect of the question alone in view of the ruling I gave last night.

Babu KHETTER MOHAN RAY: I think, if these words are deleted, the scope of the Bill would be widened, but, however, I submit to your decision. Indeed, we expected that the scope of the Waterways Bill would have embraced not only the improvement and maintenance of the navigable waterways of the country and also other allied objects of drainage, sanitation and destruction of water-hyacinth in areas other than the navigable rivers. But the scope of the Bill, as introduced in the Council, was for the maintenance and improvement of the waterways for the purpose of navigation. The Bill, after its emergence from the Select Committee, has the same scope in view. Even the scope of the Bill, as it stands now after several amendments

made in the Council, has not been widened a jot. The object of my hon'ble friend in moving the amendment is to extend the scope of the Bill by deletion of the words "for the purpose of navigation."

Mr. PRESIDENT: You are again treading on the forbidden path.

Babu KHETTER MOHAN RAY: Very well, Sir. I will not venture into the forbidden path again. My reasons are these: The whole structure of the Bill, as amended and accepted by the House, relates to the navigable channels. Clause 42 says that the Government may by notification declare which of the navigable channels shall, for the purposes of the Act, be controlled or be under the management of the Board. Next we come to clause 43A——

Mr. L. R. FAWCUS: Sir, may I ask for a ruling from the Chair? The amendment has been interpreted by some members of the House to mean that the deletion of the words "for the purpose of navigation" from the preamble will widen the scope of the Bill. If that is so, I ask for a ruling as to whether the amendment is in order.

Mr. PRESIDENT: I do not find any reason why I should change my mind. I think the amendment is in order in view of amendments Nos. 214 and 217 which were carried in this House with the concurrence of Government. If Government thought that the deletion of the words which the present amendment proposes would widen the scope of the Bill, they should not have accepted those amendments. If Mr. Fawcus or the Hon'ble Member would explain why those two amendments were accepted, it might throw further light on the disputed point.

Mr. L. R. FAWCUS: The amendments that we accepted were negative in character; they were merely drafting amendments consequent on the retention of the words "for the purpose of navigation" in the preamble, whereas the effect of this amendment would be entirely negative.

Mr. PRESIDENT: In what way?

Mr. L. R. FAWCUS: In that it will enable the Board to use the money for the purposes of sanitation and irrigation, which is not within the scope of the Bill.

Mr. PRESIDENT: I think the present amendment is also negative in character, but you have not told me why those amendments were accepted by Government. In clause 43 the words "for the purpose of navigation" were deleted, and I am sure there was a definite

object behind the amendments which effected that change. Government, I do not think, thoughtlessly accepted those amendments. On the contrary, they accepted them with their eyes open as to the effect they are calculated to produce.

Mr. C. R. FAWCUS: What we understood yesterday was that the deletion of those words will improve the wording of the Bill. If we had any idea that the amendments would widen the scope of the Bill we should certainly have objected to them.

Mr. PRESIDENT: It might have been that you thought in that way; but actually the mischief has been done, if you wish to call it mischief at all. Can you tell me if any of the amendments which has been accepted by the House will be inconsistent with the preamble if it is changed as proposed by the amendment under review? Will amendments Nos. 214 and 217 under clause 43 become infructuous or meaningless if the preamble is not so changed? If the preamble is changed, as proposed, will it, unless the sections of the Act are actually altered or new sections added, enable the Board to undertake any scheme which has nothing to do with navigation, or will it enable them to only deal with such matters as are co-related with and incidental to navigation? By that I mean such works, the execution of which will serve the purpose of navigation but at the same time will also help drainage, sanitation, etc. Can it not be that by deleting the words "for the purpose of navigation" in the preamble, it is merely contemplated to so adjust the machinery of the Act as to make its utilisation possible in dealing with problems cognate to waterways under special executive rules framed under the Act and with the help of the Government contribution made under the Act, specially earmarked for such purposes?

Babu KHETTER MOHAN RAY: May I submit, Sir——

Mr. PRESIDENT: Order, order. Let Mr. Fawcus listen to me undisturbed and very carefully. How can it be proved that amendments Nos. 214 and 217 relating to clause 43 and the present amendment are fundamentally different? What is, in fact, the line of demarcation between them?

On the other hand, if it is clear that the preamble, if changed as proposed by the amendment now before the House, will not go beyond the two amendments which the House has already accepted, I do not think the House should be deprived of the opportunity of changing the preamble, particularly to suit the two amendments that have already been accepted.

Mr. L. R. FAWCUS: We are not quite definite in our mind as to the effect of the whole thing; so I would request you, Sir, to give us time to think over the whole matter during the prayer recess.

Mr. PRESIDENT: All right; you will also consider whether or not the House is competent to change the preamble to make the Bill elastic and whether or not the preamble merely indicates what the Bill contains. In the meantime let us continue the discussion of the amendment relating to the preamble.

Khan Bahadur MUHAMMAD ABDUL MOMIN: On this point, Sir, since those amendments were tabled by us, I may be permitted——

Mr. PRESIDENT: It may be that you have stolen a march over the Hon'ble Member. (Laughter.)

Khan Bahadur MUHAMMAD ABDUL MOMIN: But the Hon'ble Member has stolen many a march over us. (Laughter.) I only want to explain, Sir, that the two amendments already accepted by the House were really intended to be consequential on the amendment to the preamble which we are now discussing. If the preamble could be discussed in the beginning, those two amendments would have been absolutely necessary.

Mr. PRESIDENT: It may be that you spread a net before the Hon'ble Member and he allowed himself to be caught in it. (Laughter.) But that is a different matter. I have given time to Mr. Fawcus until we reassemble after the first adjournment of the day to meet the points I have made out.

Babu KHETTER MOHAN RAY: In this connection, Sir, may I be permitted to point out with reference to certain clauses of the Bill that the purpose will be the same, in spite of the deletion of the word "navigation" in clause 43 (*a*) and (*b*); that point is being maintained up till now. I agree, Sir, that a mischief has been done with regard to clause 43, but in spite of that it will not widen the scope of the Bill if this amendment is carried.

Mr. PRESIDENT: Do you mean to continue your speech?

Babu KHETTER MOHAN RAY: Yes, Sir.

"Next we come to clause 43 (*a*) where it is laid down that if the Government approves, the Board may take charge of any channel and maintain it for the purposes of this Act. Sub-clause (*b*) of that clause empowers the Board to do various acts for the purpose of navigation. Though by the acceptance of the amendments moved by my friend

Khan Bahadur Azizul Haque the word "navigation" in sub-clauses (*a*) and (*b*) was deleted and in its place "Act" substituted, it makes no substantial change in the purpose of the Act, nor does it widen the scope of the Act. For the acts and works which the Board is empowered to perform and carry on are those enumerated in sub-clauses (*b*) (*i*) to (*b*) (*vii*) and sub-clauses (*c*), (*d*), (*e*) and (*f*) of clause 43 and also in clauses 45, 46, 47 and 48. The powers and duties of the Board are clearly and definitely laid down in Chapter IV of which the clauses mentioned above form a considerable part. The Board is authorised to perform those duties and undertake those works which are for the purpose of navigation only, and they are not empowered to take up any works other than those relating to navigation.

If the amendment is accepted, it is contended by the mover that the scope of the Bill will be widened and will enable the Board to take up works of drainage, sanitation and resuscitation of dying rivers. But as I have submitted, this amendment, if at all, will widen the purpose of the Act without any corresponding power being conferred on the Board to carry on works of the so-called exceptional purposes. However we may proclaim in the preamble that the scope is wider than that of the navigation and may include other things, the Board will have no power to do any other work than relating to navigation channels. Now, Sir, I have tried to make it clear that the Board is not empowered to do any acts or work except for the purpose of navigation.

Now let us turn our attention to the sources from which the Board will derive its income to carry on the purpose of the Act. Firstly, there is a provision for contribution from the Government. We have nothing to do with this source of income which is applicable to any of the purposes whether it is navigation, drainage or sanitation or destruction of water-hyacinth. No objection can be raised if it is applied to any of the purposes enumerated above.

Secondly, we come to the question of taxation. This is the most important source of income. Under the Bill, as accepted, all navigable channels under the Board shall be deemed navigable channels under section 2 of the Canals Act, 1864, and the provisions of that Act will apply to those persons who happen to ply their boats in the channels. Under clause 65 the Board will have power to levy and collect tolls under the Canals Act. The owners of the steamers plying their vessels in these channels will have to pay certain percentages of fare and freight for carrying passengers and goods. Clause 68 lays down that the Board will have power to levy license fees in respect of any class of vessels using any line of navigation. This means that agriculturists in East Bengal will be liable to pay tax under the Bill, because 90 *per cent.* of the agriculturists use the lines of navigation for the purpose of carrying their agricultural products in boats from the field to their house. Besides, all boats such as *dingi*, *panshees* and

other crafts carrying goods or passengers will be taxed. Now this tax will be raised from those persons who will use the line of navigation by plying boats or vessels in it, but not from persons who will benefit by improved sanitation and improved drainage or destruction of water-hyacinth in areas in which there are no navigable channels.

Now, the object of my friend Khan Bahadur Abdul Momin in moving this amendment is to include certain works of drainage and sanitation, that is, resuscitating dying rivers. But they have not designed the Bill as a whole to include such purposes. There are no provisions in the Bill to tax those persons who will derive benefit from improved drainage and sanitation. Will it be fair to tax those who will ply vessels and boats in navigable channels for the purpose of improving drainage and sanitation in places where canals are opened avowedly for the same purpose and cannot be or are not used as navigable channels?

I protest that the agriculturists of East Bengal should not be made to pay for the sanitary improvement in other places.

Sir, I oppose the amendment.

Mr. S. M. BOSE: It is I think somewhat unfortunate that the Hon'ble Member has already accepted amendments Nos. 214 and 217. But my friends who moved these amendments did not, I think, go far enough. I maintain that in spite of the amendments being accepted, clause 43 still remains as before. May I call attention to clause 43 (*b*)(*i*)—to make and open new navigable channels; 43(*b*)(*c*)—to clear or destroy water-hyacinth in any district where there are navigable channels, etc., 43(*c*)—to do all other acts necessary for the making and maintenance of such channels or for the safety or convenience of navigation? Then under clause 43(*e*) and (*f*) the same thing remains. So that my friends' amendments should also have included these sub-clauses to which I have referred. I maintain that by this amendment the scope of the Bill cannot be altered, but it stands as we have already accepted it. Whether we omit the words or not, I think the Bill will remain absolutely unaffected. For these reasons I oppose the amendment.

(The Council was then adjourned for prayer.)

(After prayers, Mr. Fawcus did not press his objection to the amendment to the preamble.)

Maulvi HASSAN ALI: Sir, I take my stand to give my whole-hearted support to Khan Bahadur Abdul Momin's motion, not because by removing the word "navigation" from the preamble of the Bill the body of the Bill will be healed up, so as to enable us to improve the dead and dying rivers of the province for purposes of agriculture and sanitation but because, Sir, in the hope that in future the Bill

may be so amended as to give entirely adequate facilities for the irrigation problem of the province.

I do not find any reason, Sir, why the various provisions of the Bill should be limited only to navigation and navigation alone, excepting of course only that, that the Bill is meant for doing some good only to a certain section of the population, namely, the mercantile aristocracy. But why should this be so, Sir?

Sir, ours is a country which is not, least in the present days, an industrial and commercial one. At any rate, Sir, the problem of navigation is of minor importance at present. The problem of all problems in the country is to improve the health and agriculture of the province. And this, Sir, we have pressed on the floor of this House from time to time, and, I believe, times without number. Every time we have been told by the Hon'ble Member for Irrigation that measures will be taken for the solution of the problem of irrigation, and at last we have got this precious Bill. We have supported its principles and sent it to Select Committee not because it was entirely what we wanted, but with the hope, Sir, that it would be so amended as to fulfil our aspirations. But when it emerged out we see, Sir, that it is a sheer hoax, and nothing but a big camouflage. Indeed, Sir, it is a hopelessly sorry substitute for what we demanded. We do not find anything in the Bill vitally and honestly concerned with agriculture and sanitation excepting a little piece of thing, namely, the water-hyacinth, the eradication of which, however, is limited to a very restricted area of the province. To illustrate this point of mine, Sir, I beg to submit that in my part of the province, *i.e.*, North Bengal, the question of this pest is of little or no importance at all. We in North Bengal have practically no water-hyacinth. The problem of North Bengal is an all encompassing problem, *i.e.*, irrigation. I do not like to take your valued time, Sir, by referring in this connection to the remarks on this matter of such eminent and renowned expert gentlemen like Sir William Willcox and Dr. Bentley and others for their opinions have already become public property in Bengal, and are also well known to us.

What I mean to say is this: that the large tracts of lands in Rangpur, Dinajpur and Rajshahi, once teeming with a healthy, wealthy and happy population, are now being almost every year visited by scarcity and famine, malaria, kala-azar, pox, cholera and other fell diseases. And why? The reason is not very far to seek. The Atrai, the Karto and other streamlets in this part, which once used to flow over these areas, irrigating the paddy-fields and supplying good drinking water, have now ceased to do so on account of their dead and dying condition. Areas once populous have now become jungles. Only in Dinajpur district, Sir, the population has decreased to 17 lakhs from 32 lakhs, and that is within the last 50 years.

Such is the appalling condition of things in North Bengal, Sir. But what has the Hon'ble Member done in this Bill in respect of North Bengal, I ask? It is a sheer irony of fate, Sir, that by a sudden stroke of fortune the Hon'ble Member in charge has turned into an out-and-out navigator from being an avowed irrigator.

With these few words, Sir, I support the motion.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Many angry speeches have been delivered from this side of the House; but the shrewdest speech I have heard is that of my friend Khan Bahadur Azizul Haque. He is the mover of this motion, if I remember aright. (Cries of "No, no.") He supported it. But at the same time it was his original motion. I do not believe at this fag end of the day, when after several days of trouble and harangue, we have not succeeded in getting much out of the stone one more angry speech from me will solve the problem. But I think it will be a good business proposition if I would ask my hon'ble friend, Sir A. K. Ghuznavi, the Member in charge of the Bill, who is not hearing me. But I hope the Member in charge will kindly hear the speeches that are being delivered in vain; he is still not hearing me, Sir.

Mr. PRESIDENT: (To the Hon'ble Sir Abdelkerim Ghuznavi) The Nawab is making a personal appeal to you.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: What I want to tell him is this, that it is no doubt a difficult problem for him to solve the entire problem of sanitation, irrigation and navigation by one Bill. If he attempted it, we would have welcomed it as, I believe, that is the attitude of the whole House. But he does not admit that, and when we supported his Bill we were under the impression that we will be able to improve his Bill on the floor of this House. But fate has ordained otherwise. He has proved himself a stone and we could not get much out of it. So my last appeal to him is that he may enlighten us as to what is the policy of Government in respect of those waterways which will not be in any way affected by the present Bill and which require looking after by Government—whether it is his department or any other department. I have nothing to do with it. When I ask for a reply from him for a statement like this, I do it on the assumption that he is in charge not only of navigation but he is in charge of irrigation and to some extent of public health as well, so far as his schemes concern public health. That being the case, a lot of misunderstanding which has cropped up would have been removed if a statement from him had come enlightening us as to what Government was thinking of doing for reviving the dead and dying rivers in order to improve the sanitary condition of Bengal, and further what Government was going to do to amend the Sanitary Improvement Act which has become a dead letter. He may say—we have got the other Act to deal with these matters,

namely, to improve your lands for the purposes of sanitation. I want to shut his mouth if he speaks in that strain. I ask to know what the Government proposes to do to deal with those waterways that will not be affected by this Bill. I have not asked much from him: I have simply asked for a statement from him, as it may change the attitude of many of us here. That is probably what Khan Bahadur Azizul Haque wanted from him, and I hope that we will get that statement from the Hon'ble Member.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: Mr. President, Sir, I have listened with a great deal of patience to the speeches that have been delivered from the various quarters of this House and, with a great deal of impatience, I tried to find out what the various members were driving at. Well, Sir, I confess my initial amazement at the fact that I have not succeeded to grasp any meaning. I shall first of all begin with a reference to the Expert Committee's report where the matter has been clearly set out. The Expert Committee when dealing with this matter commenced by referring to the report of the Royal Commission on Agriculture and they took their cue from the finding of that Commission, and they said that they agreed that the Department of Navigation should be separated from the other three Departments, namely, Irrigation, Drainage and Embankment, which together with Navigation are labelled as the Irrigation Department of the Government of Bengal. This is what they said: "It seems to us obvious that any separation between embankments and drainage is impossible and that, where both exist in the same area, they must be dealt with as part and parcel of a single problem. The combination of irrigation and embankments practically demands, therefore, the addition of drainage. We have considered the suggestion that the line of division between the two departments might be partly territorial, and that drainage should be combined with irrigation and embankments in those parts of the province where these are important and with navigation where waterborne traffic is the chief element to be considered. A consideration of the needs of Central Bengal, however, will show the difficulty of saying where the line should be drawn, and we have come to the conclusion that drainage throughout the province should remain with the department which deals with irrigation and embankments. It is desirable that the drainage of Bengal should be studied and dealt with as a whole by a staff which has specialised in the subject, and that the responsibility should not be divided among different organisations. It is also of importance to remember that drainage works are regulated by the same legislative enactments as regulate irrigation and embankments, and that it might well prove inconvenient to have two different authorities administering the same Act." That, Sir, I submit is perfectly clear. I must confess

that while I heard the good doctor quoting from this very same report, I certainly would have given him credit for having read the whole report, but he picked out only certain passages which suited him for the time being. Had he read the whole report his labours would have been considerably shortened. Then, again, the ball was set in motion by my hon'ble friend Khan Bahadur M. A. Momin whose absence I deplore. The Khan Bahadur confessed his enthusiasm for the Bill, confessed his admiration for the Bill and said that he hoped that the Bill would do certain things. He said that this Bill would resuscitate the dead and dying rivers: he said he hoped that it would improve the *khals* and *bhils* in the interior of the country. He said that this Bill would further clear water-hyacinth and so on and so forth. I would ask him—Will not this Bill, as has been almost enacted in this Council, do all that? The few words in the preamble, to my mind, will not make any difference as I shall presently explain. When you clear a river, when you clear a *bhil*, when you clear a *khal*, for the purpose of navigation do you not automatically clear it of water-hyacinth and having done that, will it not automatically improve the health of the people, will it not improve the sanitary condition, will it not improve agriculture, will it not very substantially do everything for the well-being of the cultivators? Then I ask how is it that this sort of cloud has spread over the mental vision of the various members who have spoken before me? How is it, I ask, they failed to appreciate the object of the Bill, how is it I ask that their memory has become so short that they have forgotten what I said at the time when I introduced the Bill, and when I asked this House to take the report of the Select Committee into consideration? I then explained the scope of the Bill very fully and very clearly. The Nawab Sahib Musharruf Hosain wants to know whether this Bill will resuscitate the dead and dying rivers. I say emphatically "of course, it will." I said that the water-ways of Bengal had been woefully neglected and that it was the intention of Government to create a machinery that would devote its entire attention to one question and one question alone, namely, the improvement of the waterways of Bengal. There are 20,000 miles of major waterways in Bengal, leaving aside minor *khals* and *bhils*. I made it perfectly clear that it was not the intention to trespass on other matters which were covered by certain other existing enactments. That also was very carefully and clearly brought out in the Expert Committee's report. Such being the case, I wonder how could my friend Mr. Narendra Kumar Basu raise such objections as he did. How could he impugn my intention: how could he fail to appreciate the trouble I took to do my humble bit for the welfare and benefit of the people of this country? I stood amazed at the cloud which seemed to have spread over his mental vision. I can only exclaim with Shakespeare: "Oh! judgment, thou art fled to brutish beasts, and men have lost their reason." That is the only thing I can say about it. How is it that

they failed to grasp the objects of the Bill which were clearly defined in bold relief: how is it that their memory have become so short that they have forgotten the pregnant words which I used not only once but on many occasions to the members of this House? I claim that the Bill is going to deliver the goods. The Bill will do further and that is this: it is not going to confine itself to small *bhils* and *khals*; it is going to do everything to improve the waterways: to do the greatest good to the greatest number: that is the object of the Bill. Is it not something for the benefit of the people, is it not something for the uplift of the rural population? I claim that the clearing of waterways automatically does all other things in its train. This particular Board has been created with certain definite objects and with certain definite statutory provisions and these provisions must remain as they are. Now, Sir, with your permission I would like to turn to the gallant Khan Bahadur from Nadia. He has done me the honour of quoting me. I wish he had quoted me in full. I am afraid so far as he is concerned he is probably smarting under the slight pain that I might have caused him when I happened to tread on his corns when he tried to introduce a Bill for a single district leaving aside the whole province which comprises 26 districts. I shall quote my own words and also his. I said: "The waterways of Bengal are such that they require a comprehensive Board to control and not only that, the intention, so far as the Waterways Trust is concerned, is to invite the neighbouring provinces to come and join in the Board when the Board is constituted." I went even further than what he claimed in the House. "Comprehensive Board" is a plain English term which means a Board which will look after the waterways of the whole province. That is the clear meaning. I have explained further this afternoon and I do not mind repeating again and again. I claim that the goods will be delivered by this Bill.

Well, Sir, the Khan Bahadur naturally has not forgotten the little pain which he must have felt when his Bill was thrown out. But I should like to remind him of what happened. He said in one place that he would be prepared to withdraw the Bill if Government would bring forward a Bill of their own before the House. Did I not assure him then that Government had a Bill actually ready in their pocket? He, however, persisted in referring his Bill to the Select Committee. It was then when I found that he was so unstable and shifting that I had to get up and brush the Bill aside. I am sorry that, at this moment I have to recall another poet, this time not from Germany, but from Italy. That poet said—

"La donna e mobile
Qual piuma al vento
Muta d'accento
E di pensiero."

That poet has said that womankind is changeable, but it has remained for the Khan Bahadur to prove that men too are unreliable and changeable. So much for that.

Now, Sir, what I really must take exception to is the manner in which time after time the good Khan Bahadur and some of his allies never hesitate to fling mud at Government in season and out of season, because in certain quarters Government have been termed to be under the influence of satan, and things of that kind. I never expected that sort of mentality to find a place in this House, when any measure of beneficence is brought forward by Government in the larger interest of the people. If that be the mentality of Khan Bahadur Azizul Haque and his ilk, then they may straightaway say to Government with Tom Brown—

"I do not love thee, Dr. Fell,
The reason why I cannot tell,
But this alone I know full well,
I do not love thee, Dr. Fell."

Well, that would be understandable and intelligible, and if that is their attitude, there can be no answer. I am, however, sure that there are some people who are not so blind as not to see the intention of Government at least in a small measure to do some good to the people.

I think I have clearly demolished the arguments put forward by the Khan Bahadur and have clearly shown the object with which Government have proceeded right from the beginning and have not deviated by a hair's breadth. The good Khan Bahadur also drew my attention and in fact he was kind enough to refer me to paragraph 75 of the report where some other scheme was referred to by the Expert Committee. I find that the Expert Committee suggested some such thing. May I with your permission read out what that committee suggested in that paragraph which the gallant Khan Bahadur so valiantly brought out before the members of this House?

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. Is the Khan Bahadur a member of the army?

Mr. PRESIDENT: He is all the same gallant.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: The Expert Committee said that there should also be a central committee to assist the Minister and recommended that this should consist of the Chief Engineer, Irrigation Department, the Director of Public Health, the Director of Agriculture, the Secretary of

the Local Self-Government Department, the Secretary of the Agriculture Department, and the Deputy Secretary of the Finance Department. I ask the Khan Bahadur, what is there to prevent the Government or the future Minister from forming a committee like that? There is nothing whatsoever. I can assure him that I have read every word in that book from cover to cover and I know not only the book but also its implications, and I can assure him that my single aim has been to do something which would be commensurate with the recommendations of the committee and at the same time do a measure of great public good and thereby help the well-being of my countrymen.

Well, I am glad to find that Khan Bahadur Abdul Momin has put in his appearance. I regretted his absence because I made some complimentary remarks which he should have been here to hear. Anyhow, I shall repeat for his edification that the goods he wanted will all be delivered without a single one missing, and that ought to well satisfy him. Well, can I imagine the glee and joy of the good doctor sitting over there. He jumped at the opportunity of being able to support this motion. He suddenly woke up with greater wisdom and found what a mistake the members of this House had committed in not supporting the scheme put forward by him before the House. Probably the good doctor had invoked the aid of that unseen gentlemen known as Mr. Mephistopheles. He gleefully referred to the hydraulic survey. He is very much interested in it, and so are we. It will be one of the duties of the Board to carry out that survey. It has been stated not only in one paragraph of the book but in many places in the book. It will be one of the duties of the Board to carry out the hydraulic survey of the province.

I can well imagine the grouse of my friend Maulvi Abul Kasem, who I find has probably changed his mind and come over to the European group with his parochial idea. This Bill is not parochial. It is parochial in the sense that it is going to confine itself within the province; it is parochial in the sense that while its object is to improve the waterways, the improvement will automatically bring in other things which will help the well-being of the people of the province. The activities of the Board will reach not only Burdwan but also Rangpur in North Bengal, a member from which place has not even heard of water-hyacinth. Oh! how blissfully ignorant he must be.

I am grateful to Mr. Satish Chandra Ray Chowdhury for having explained the possibilities that lie absolutely on the surface of this Bill. He said that the Bill proposes to improve the waterways of Bengal in the broadest, deepest and fullest sense of the term, and that is all clear.

I think I have answered all the points. I believe I have cleared the cobwebs and I find that I have been in a manner helpful to my friends sitting on all sides of the House to understand the clear meaning and

the broad meaning of this Bill. I can assure them that this Bill is going to do exactly what they and all of us want and desire. I can assure them also that this phrase which the amendment proposes to delete will not have the least bearing on the questions that they have raised, but what it will do I have explained also clearly. It will not trespass on the existing Acts. It is going to do one important work, *viz.*, to look after the waterways of Bengal.

Mr. NARENDRA KUMAR BASU: For the purpose of navigation?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: Well, if you clear the *khals* and *bhils* for navigation, I repeat again what I said before that in doing so you do many other things: you kill the malaria mosquitoes, and make many other improvements.

Khan Bahadur MUHAMMAD ABDUL MOMIN: What about the Damodar river?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: I am very glad the Khan Bahadur has reminded me of the Damodar river. I can say that Government have dumped over a crore of rupees there. He of all persons can have no cause of complaint. I can understand members hailing from other districts say —What right the Government had to dump over a crore of rupees in one district. This being the case, it does not lie in his mouth to stand up and accuse Government. Sir, one word more and I have done. This is just to clear up a doubt in the mind of my friend Mr. S. M. Bose who happened to remark that it was unfortunate that I had accepted the previous amendments. If I had accepted those amendments I did so with my eyes open. It was no snare into which the Irrigation Department had fallen; nothing of the kind. I did so with full understanding of the implications of the amendments. I did so in the interest of the Bill, in the interest of the wording of the Bill and also in the interest of what I have been saying just now; so that it is all at one with the views that I entertain. It is perfectly all right. The Bill is there; its purport has been fully explained by me, and I hope I have been able to clear away many a doubt and misgiving with which members of this House have been troubled. I also hope that I have been able to give satisfaction to many of the questioners who put me questions direct, including the Nawab Sahib, as well as those sitting close behind him. I hope that the Bill is going to deliver the goods and that members will have no misgivings on that point at all. With these words I oppose the amendment.

The motion of Khan Bahadur Muhammad Abdul Momin that in the first paragraph of the preamble, in line 3, the words "for the purposes of navigation" be omitted being put, a division was taken with the following result:—

AYES.

Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Khan Bahadur Maulvi Ahmezzaman.
Chaudhuri, Dr. Jogendra Chandra.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nural Absar.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hoque, Kazi Emdadul.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Law, Mr. Surendra Nath.
Maiti, Mr. S.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Qasem, Maulvi Abul.
Rahman, Mr. A. F.
Rahman, Mr. A. F. M. Abdur.
Rai Mahasai, Maniendra Deb.
Ray, Babu Amulyadhan.
Raut, Babu Nagendra.
Ray, Babu Jitendra Nath.
Ray, Mr. Saileswar Singh.
Sahana, Babu Satya Kinkar.
Samad, Maulvi Abdus.
Shah, Maulvi Abdul Hamid.
Singh, Srijut Tej Bahadur.
Soleiman, Maulvi Muhammad.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Ashworth, Mr. C. G.
Bal, Babu Lalit Kumar.
Banerji, Rai Bahadur Satindra Nath.
Barma, Rai Sahib Panchanan.
Barman, Babu Promhari.
Basu, Babu Jatindra Nath.
Birkmyre, Mr. H.
Bose, Mr. S. M.
Burn, Mr. R. H.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Dain, Mr. G. R.
Dutt, Rai Bahadur Dr. Haridhan.
Dutt, Mr. G. S.
Edgley, Mr. H. G. A.
Ezzatji, Maulvi Nur Rahman Khan.
Fawcus, Mr. L. H.
Ghose, the Hon'ble Sir Ghare Chunder.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildoar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Hogg, Mr. G. P.
Hossain, Nawab Muscharruf, Khan Bahadur.
Hussain, Maulvi Latafat.
Khan, Mr. Razaur Rahman.
Martin, Mr. C. M.
Mason, Mr. S. A.
Miller, Mr. C. C.
Mitter, Mr. S. C.
Mullick, Mr. Mahendra Behary.
Nag, Reverend S. A.
Nag, Babu Suk Lal.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nicholl, Mr. S. K.
Norton, Mr. H. R.
Raheem, Mr. A.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray Chaudhury, Mr. K. C.
Ray Chowdhury, Babu Satish Chandra.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J. E.
Ray, Mr. S. N.
Ray Choudhuri, Babu Nem Chandra.
Sarker, Rai Bahadur Bebati Mohan.
Sen, Mr. S. R.
Steven, Mr. J. W. R.
Sumner, Mr. C. H.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Williamson, Mr. H. R.
William, Mr. A. Des.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 29 and the Noes 58, the motion was lost.

The motion that the preamble stand part of the Bill was then put and agreed to.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dildoar: Sir, I beg to move that the Bengal Waterways Bill, 1933, as settled in Council, be passed.

In making this motion may I have your leave to add a few words. I shall begin by saying that I desire to convey my thanks to Mr. Hooper and the Legislative staff under him, whose services have been so valuable in framing this Bill. I equally desire on this occasion to refer with gratitude to the co-operation—may I say the devoted co-operation—on the part of the Secretaries, Messrs. Twynam, Philpot and Fawcus, and all those of the Irrigation Department who have co-operated with me in this matter? I may also say that, last though not the least, I am beholden to the members of the House for their generous support and also to the members of the Select Committee for the careful attention which they have paid to the clauses one after the other, as well as to the manner in which they have given their support in this Council. I think, Sir, we all feel that for the first time a machinery has been created by Government that will look to the well-being of the rural population, an agency which will consult local interests, local opinions and the needs and wants of the rural population. May I say that I look upon this day as a momentous day in our annals—a day when with the blessing of God we have been able to create a machinery, the aim of which is to benefit humanity and God's creatures in general, thus rendering a service to God. May I also say that so far as I am concerned I can only thank the Almighty for having vouchsafed to me to take some share in shaping this measure? I may also say that I feel that I have realised one of the dreams of my life that during the course of my holding this portfolio, I have been able to leave some impress which will act beneficially upon my countrymen. May I also say that I, along with the members of this House, have good reasons to congratulate ourselves upon the part we have played in passing this Bill. May I also say that we rejoice that our labours have come to an end and that we should with all humility forgive and forget with charity and tolerance all the criticisms that may have been levelled sometimes knowingly and sometimes unknowingly? We should all remember the verse of the Holy Book where it says—

"Wa ma toquaddemo lianfosikum,
Min khairen tajduho 'Indillah;"

which means, whatever you send for your soul before you that you shall find with God.

Khan Bahadur Maulvi AZIZUL HAQUE: The time has now come when this Irrigation Bill, the Waterways Bill, is going to be an Act. I as well as members of this House might say a few words about the scope of this Bill. Whatever the Hon'ble Member in charge of the Irrigation Department might say also, he certainly excels everybody in this House in quotations in German, French and Italian and other languages; but the facts are this: that the Act is not going to benefit

entire Bengal and let us be under no illusion about this fact. I am not opposing the third reading. I certainly congratulate the Hon'ble Member in charge of the Irrigation Department that this is an Act which is going to be put on the statute book of Bengal, and I do not join issue with him that it is going to be beneficial to all. It is not going to be anything of the kind. In a series of amendments where we have sought to know what the policy of the Hon'ble Member would be as regards the other work of the Irrigation Department, we have been ridiculed at times and words have been expressed in which there have been enough similes, enough quotations. But surely we have no reply to the actual point raised in this Council. Have I got any answer to my point that, as a matter of fact, the Hon'ble Member had no justification to oppose the Nadia Waterways Bill? Because when I mentioned it to him he said "There must be an organised scheme for the whole of the province and the Bill framed by Government is ready and I see no necessity whatever of a separate Bill." The present Bill is definitely a provision for the purpose of navigation only. After all I am glad that navigation has been separated from the other works of the department. Long before the Hon'ble Member took charge of the ministerial chair, I and others raised the same issue in this House immediately after the Agricultural Commission. Time has now come and sooner or later we must separate navigation, and in reply Government said that they were going to appoint a committee and the Hopkyns Committee was appointed; and I am glad to see that navigation has been separated. I am also glad that it is going to do some good to a part of the province. So far as the Irrigation Department is concerned, its main object has been attained; and so far as the Waterways Bill is concerned, its main object is navigation. By separating this we have at least the hope for Government to take up irrigation apart from other works. I am not quoting my own language, but I am supported by the very report which says that it is not going to benefit Burdwan Division and Rangpur Division. The Irrigation Department definitely went into the matter and found so far as navigation is concerned that there is no place in Eastern Bengal and no place in Northern Bengal. I am quoting from the report which says:—

"Dealing in order with the four geographical divisions of Bengal, the potentialities of Northern Bengal are almost unknown, but it is probable that the main problems which will arise will be connected with irrigation and drainage. In Western Bengal irrigation, drainage and embankments are all of great importance, while in Central Bengal drainage, if flushing be included in the term, is the predominant interest. In Eastern Bengal fortunately, embankments are rare, and there is only one maintained by the Irrigation Department. There is at present little demand for irrigation and that only in limited areas. There is a demand for drainage, but this is chiefly for the restoration

of old channels in order that water may flow and boats may pass. Navigation is the subject upon which attention is mainly focussed. A separation between waterways on the one hand, and irrigation, embankments and drainage works on the other, will result in two organisations one of which will be mainly concerned with Eastern Bengal and the other with the rest of the province."

From this we can see that there will be very little scope for Western Bengal. It is as incongruous to employ in Western Bengal an officer who specialised in waterways as it would be for Irrigation scheme to be employed in Eastern Bengal. I do not grudge this. As a matter of fact, we have neglected Eastern Bengal much more than we should have. Eastern Bengal is the granary of this province. It has the finest economic product, namely, jute, and it is therefore desirable that we should look to Eastern Bengal first. I quite remember that the Hon'ble Member declared saying that this is going to be the ultimate result of this Bill. I for one would like the Irrigation Member to say what his policy is going to be with reference to this problem in Western Bengal, but I have not succeeded in getting an answer. When I raised this issue it was misunderstood by him. I fully support the Bill and congratulate the Hon'ble Member on it. I definitely think that it would be disastrous if navigation and irrigation are combined under this Bill. But, Sir, my grievance still remains. I am not able to quote from many languages, but I remember one sentence of a famous poet of Scotland and I would reply by that——

"Would some power the gift would give us to see ourselves as others see us."

Mr. SHANTI SHEKHARESWAR RAY: I feel great hesitation to speak on this Bill at this stage. I know that the Hon'ble Member in charge of the Bill is very keen about having this Bill passed. I know from him that he has got hearty support of His Excellency the Governor in this matter. Sir, this makes our position very difficult——

Mr. PRESIDENT: You need not labour on that point.

Mr. SHANTI SHEKHARESWAR RAY: I am just referring to it——

Mr. PRESIDENT: No, you cannot do that.

Mr. SHANTI SHEKHARESWAR RAY: Of course if that be your ruling, I submit to it, but I feel it very keenly. I feel that the position taken up by the Hon'ble Member in charge of the Bill was wholly unconstitutional.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I deny that.

Mr. SHANTI SHEKHARESWAR RAY: But, Sir, in spite of disinclination to say anything unpleasant on the subject, I feel it my duty to give expression to what I feel about this Bill. I feel, Sir, that the Government and the Hon'ble Member have not been well advised in bringing forward this measure at this time. (A VOICE: "Why not?") Before the measure is enacted into law, I would appeal to the Government of Bengal to consider what effect it may have in the country. Sir, what is the position about the Bill? The position about the Bill is that the Hon'ble Member is going to create a machinery for the improvement of waterways of Bengal. But, Sir, a simple machinery cannot take us very far unless there is sufficient money to make the machinery work; otherwise it is no use to have a machinery like this at all. What provision does the Hon'ble Member make in his Bill? There is that sum of Rs. 2½ lakhs. Sir, the Hon'ble Member does not give us any idea whether in the immediate future the Government intend to raise their contribution to the Waterways Trust. The only way in which that machinery can work will be by raising money by taxation, and I submit that raising money by taxation in the present economic condition of the country will be disastrous. It will have a very bad effect on the trade in the country. Sir, I warn the Government that if they give their assent to this Bill and if the Act comes into force, the economic situation in the country will grow worse, the price of products will further go down, and it will do further mischief to the country. Sir, the Government will be well advised before they put this Act into force to take the advice of the proper commercial authorities in the land and enforce the Act only when they obtain their support, and then and then only.

The motion that the Waterways Bill, 1934, as settled in the Council be passed was then put and agreed to.

At this stage the Council was adjourned for prayer.

(After adjournment.)

The Cattle Trespass (Bengal Amendment) Bill, 1934.

The Hon'ble Mr. R. N. REID: Sir, I beg leave to introduce a Bill further to amend the Cattle Trespass Act, 1871, in its application to Bengal.

The Secretary then read the short title of the Bill.

The Hon'ble Mr. R. N. REID: Sir, I beg to move that the Cattle Trespass (Bengal Amendment) Bill, 1934, be taken into consideration.

This is a small and, I think, quite non-controversial Bill. The object is to empower Presidents of Union Boards to sell unclaimed cattle which have been impounded. At present such cattle are sold under section 14 of the Act by the officer in charge of the nearest police-station or by such other officer as the District Magistrate may appoint. It has been held that the words "such other officer as the District Magistrate may appoint" cannot be held to include Presidents of Union Boards. The object of this Bill is to admit of such persons being empowered to hold the sales of unclaimed cattle. The alteration of the Act will be beneficial in two respects. In the first place it will be convenient to the people as they often live a very long distance from the places where sales are held. In the second place the surplus proceeds of such sales can under section 18 of the Cattle Trespass Act be applied for the improvement of roads and bridges in the neighbourhood. It is, therefore, to the interests of Union Boards that the cattle should be sold at as good prices as possible. That is the whole purpose of the Bill, and I do not think I need take the time of the Council any further.

The motion that the Bill be taken into consideration was put and agreed to.

The motion that clauses 1 and 2 of the Bill stand part of the Bill was put and agreed to.

Clause 3.

Maulvi ABUL QUASEM: Sir, I beg to move that in clause 3, after proposed section 32(*1*) the following proviso be added, namely:—

"Provided that a President so appointed may by general or special order delegate all or any of his functions under section 14 to the Vice-President of such Union Board and may at any time withdraw the same."

Maulvi ABUL QUASEM: I also beg to move that in clause 3 in proposed section 32(*2*) in line 1, after the word "appointed", the following words be inserted, namely:—

"Or the Vice-President to whom the President may delegate his functions."

As I understand, Sir, Government is going to accept the amendments in the form in which I have moved them, I shall not take up any further time of the Council.

The Hon'ble Mr. R. N. REID: Sir, I am prepared to accept the amendments moved by Maulvi Abul Quasem as he has now read them, *i.e.*, omitting the words "or any other member of such union board" from the first amendment and the same words from the second.

The motions were put and agreed to.

The motion that clause 3, as amended in the Council, stand part of the Bill was put and agreed to.

The motion that the preamble stand part of the Bill was put and agreed to.

The Hon'ble Mr. R. N. REID: Sir, I beg to move that the Cattle Trespass (Bengal Amendment) Bill, 1934, as settled in Council, be passed.

The motion was put and agreed to.

The Bengal Smuggling of Arms Bill, 1934.

The Hon'ble Mr. R. N. REID: Sir, I beg to move——.

Mr. SHANTI SHEKHARESWAR RAY: On a point of order, Sir. On the last occasion Mr. Hogg was the Member in charge of the Bill. I want a ruling from you whether on this occasion the Hon'ble Mr. Reid can move for the consideration of the Bill. I refer to section 52A (page 292) of the Bengal Legislative Council Manual. My point is that Mr. Hogg is the Member in charge of the Bill. He was acting on behalf of Government in the absence of the Hon'ble Mr. Reid and so the further stages of the Bill should be entrusted to his charge.

Mr. PRESIDENT: If I remember aright, the Hon'ble Mr. Reid was not well on that particular day and he delegated his function to Mr. Hogg, with my permission, in regard to the Bill under review.

Mr. Hogg was acting on behalf of the Hon'ble Mr. Reid and that he was in order is clear from the definition given in our rules of a Government Member. I think Mr. Roy will have no doubt in his mind that the Hon'ble Mr. Reid, now that he is in the House again, is perfectly entitled to resume charge of the Bill. The definition runs thus:

"Member of Government means a member of the Executive Council or a Minister, and includes any member to whom such Member may delegate any function assigned to him under these rules."

The Hon'ble Mr. R. N. REID: Sir, I beg to move that the Bengal Smuggling of Arms Bill, 1934, as reported by the Select Committee, be taken into consideration.

Sir, the Bill has received so little alteration at the hands of the Select Committee that I need not detain the House long before we proceed to consider it. In fact there are only two changes that the Select Committee have made to which I think I need draw attention. The first is that in clause 5 of the Bill, sub-section (2), an addition has been made to this effect: "and shall contain a statement of the heads of the charges against such person." That affects the procedure when a warrant is handed to persons against whom action is intended to be taken and it makes more clear the position to those persons. The Select Committee considered this to be desirable as it was in accordance with the Goondas Act on the basis of which this Bill has been framed.

The second alteration is the addition of a proviso to sub-clause (3) of the same clause, which reads thus: "Provided that while such person is detained in custody, he shall be given reasonable facilities, under proper safeguards, for communicating with his legal adviser." That Sir is a proviso which I think is reasonable and to which no objection can be taken. Beyond these two points I do not think I need draw attention to any point in the Bill, and I suggest that the House now proceed to consider the Bill and the amendments thereto.

The motion was put and agreed to.

Mr. P. BANERJI: I beg to move that the Bill be recommitted with the addition of the following names:—

(1) Mr. Shanti Shekhareswar Ray,

(2) Mr. Ananda Mohan Poddar, and

(3) Munindra Deb Rai Mahasai.

In doing so I shall first of all tell the House——

Mr. PRESIDENT: Order, order. You should have risen to move your amendment before I put the Hon'ble Mr. Reid's motion that the Bill be taken into consideration. By not doing so, you have deprived yourself of the right to move your amendment because you allowed the House to carry the Hon'ble Mr. Reid's motion. You did not rise in your place at the right moment to bring to my notice that you had an amendment that the Bill be recommitted. I think you understand the position. Of course, I have often myself called upon members to move amendments standing in their names, but it is not obligatory on me to do so. I think it is particularly the duty of the member concerned to bring to the notice of the Chair that the consideration of a motion should not be taken until his amendment for the recommittal of the Bill is taken into consideration. I am sorry it did not strike me, and perhaps you are also sorry that you did not draw my attention to

that at the right moment. Anyhow, it cannot be moved now as the House has already agreed that the Bill should be taken into consideration.

Mr. P. BANERJI: Sir, in my five years' experience in this Council, we all know that when the agenda is before you, you generally call us. Now what is the position?

Mr. PRESIDENT: When the amendment was reached, it was particularly, your duty to rise and claim your undoubted privilege to move, whether I called your name or not. Although I did not call on you, you also did not rise to move. In any case, I do not think you will expect me to reopen the matter, as I would then place the House in a very awkward position. I cannot ask it to consider in the same session a matter on which it has already come to a decision.

I am very sorry, but it cannot be helped.

The motion that clause 1 stand part of the Bill was put and agreed to.

The motion that clauses 2, 3, 4 and 5 stand part of the Bill was put and agreed to.

Clause 6.

Mr. P. BANERJI: I beg to move that for clause 6(2) including proviso (*a*), (*b*) and (*c*), the following be substituted, namely: —

"(2) The Judges shall consider the report and other facts of circumstances, if any, adduced before them by Local Government in open court giving the person or persons against whom the report has been made opportunity to defend himself or themselves by pleader and adduce any evidence that may be necessary in this behalf. The advising Judges shall be bound to observe the rules of Evidence."

Sir, it was said at the time of sending this Bill to the Select Committee that mostly the sailors and *lascars* would be prosecuted under this Act, and that it would not be used against the ordinary population of the country. But there is no such guarantee in this Bill, and when it has been said by Government that this is not intended for the ordinary population but only for those *lascars* and sailors and particularly it is not to be used against the terrorists, then what is the difficulty of Government having an open trial. The Select Committee, as the Hon'ble Member has just pointed out, have made two changes in the Bill. One is that a statement of the heads of charges against such person will be given t him at the time of serving the warrant; that was at first denied. Then another addition has been made which is to the effect that "provided that while such person is

detained in custody, he shall be given reasonable facilities, under proper safeguards, for communicating with his legal advisers." So Government intends to give these facilities under proper safeguards; and we know when a person is in custody, what these safeguards mean. Sometimes it has been found that there are iron bars between them and the pleader is not allowed to go inside the bars. No doubt he is a lawyer, and it is degrading for him to wait outside in that way. Of course under special circumstances lawyers are allowed to go inside the jail, but there are so many persons present there that it is often difficult for the person in custody to consult the lawyers. However, it has been suggested that these persons will be given facilities of legal advice, but what is then the difficulty of the Government in not trying them in open courts, so that their legal advisers might come forward and cross-examine the witnesses. Does it stand to reason that an ordinary person who is not a master of law but whose statement may support the explanation of the person under trial will be allowed to appear before the Judges but not a lawyer? Instead of that person, if a lawyer comes there and cross-examines the witnesses, what is the difficulty? Government says that it is difficult to prove such cases. Well, if you cannot prove such cases, the civilised world demands that you must give him the benefit of doubt. But here we find it has been provided that even if you cannot prove the case you will direct him to leave the province, and also whatever the legal opinion may be, your decision will be final. If that is so, then why all this fuss? You will shortly enact another law, namely, the Bengal Criminal Law Amendment Act, which will make the position much easier for you. When that Act is coming very soon, I think the Hon'ble Member will see his way to withdraw this Bill. It is not at all necessary, and the ordinary laws of the land are sufficient to cope with the situation. Therefore, I protest against this sort of action which the Government now wants to take. If Government want to deal with cases which they cannot prove, it would appear that the judicial administration is suspended and everyone would become suspicious. I think that the real motive of the Bill is not to apply it against the *lascars* and sailors as was suggested, but also against other persons. Then, again, the Judges will lose their independence; they will not act up to their conscience; they will not be bound by the Evidence Act, as it has been said that that Act will not be applicable to these cases. If that is so, then what is the use of having the Evidence Act on the statute book at all? Instead of all these laws, why not declare martial law, and then whatever you want to do you can do. You talk of the Local Government doing this and that, and say that everything will be done with the permission of the Local Government. In this connection I may state a recent case. A certain well-known gentleman, namely, Mr. Ramananda Chatterji, was hauled up before the court for an offence of sedition.

Mr. Chatterji cited some members of Government and also the Secretary as witnesses. This was in connection with the publication of the book entitled "India in Bondage." The whole book appeared in magazines from time to time, but when the book was finally published and was being sold for some time, Mr. Chatterji was hauled up before the court.

Mr. PRESIDENT: I hope you will be able to establish the analogy between the two cases.

Mr. P. BANERJI: Yes, Sir, I hope to. When the members and the Secretary went to the court, they were asked to state what they knew about the book and also whether permission had been granted by the Local Government to prosecute Mr. Chatterji. They however deposed that they knew nothing about the matter. So, my point is that in spite of the fact that the Local Government sanction certain things to be done, it is often found that the members have not the slightest idea of them. Therefore, it stands to reason whether "with the permission of the Local Government" means anything. But certainly they must have permission of the Local Government which means permission of all the members of the Executive Council. That being the case, I do not see why for this sort of ordinary crime Government is so persistent in doing away with open trial. What is the object of an open trial? The object is to test the truth of the case. It is possible to perjure a witness in any trial *in camera*, but if there is an open trial there is always the possibility of getting at the true picture of things, as the witness has to stand the test of cross-examination, and he will think twice before attempting to tell a lie before an open court, where members of the public are present. But if this trial is held *in camera*, he will know that he won't be subjected to such cross-examination and will not perhaps hesitate to say anything he likes without fear of being cross-examined. The object of an open trial is to find out the truth.

Government, Sir, sometimes find it difficult to find out the truth in certain cases and arrive at some decision unless certain persons who give evidence in the court, are protected from the test of cross-examination; that is why they have brought in this provision. This is, in other words, indulging people to tell lies and give all sorts of incorrect evidences before the court. This will not be possible before an open court where the witness has to stand the crucial test of cross-examination by lawyers. Therefore I say it is fair to Government and also fair to the person against whom such charge is brought in to have an open trial, and I hope Government will stick to the principle of open trial, and not allow any deviation therefrom.

With these words I commend my motion to the acceptance of the House.

The Hon'ble Mr. R. N. REID: Sir, Mr. Banerji has treated us to a good deal of irrelevant matter, but I think the point is very simple. What he wants to substitute is something in the nature of a trial in open court with the Evidence Act and the usual appanages of a trial in open court. This procedure, however, is against the whole essence of the Bill. We are not so much after the *lascars* as the smugglers who remain in the background; the latter do not actually commit an offence in the sense that they import the arms in ships but are persons who act as go-betweens between the people who import arms illegally in ships and the persons who want to obtain these arms, that is to say, the terrorists. The substitution of the words of this amendment for the clause, as it stands, in the Bill would destroy the whole purpose of the clause. The clause is based on a similar clause in the Goondas Act, and I submit that if that clause has been found suitable for dealing with the *goondas*, it is infinitely more suitable for dealing with the sort of people that we are trying to get at, that is to say, people who are supplying arms to the terrorists.

Mr. Banerji has mentioned the proviso which has been put in by the Select Committee in sub-clause (2) of clause 5, in which it is proposed that the person who has been taken in custody shall have access to legal advisers. That is perfectly true; and this proviso gives a certain amount of facility for legal advice to such persons, but that is as far as we can go. To grant him the further privilege that the mover of the amendment proposes is out of the question, and I think the House will agree that in dealing with the people against whom this Bill is directed no other procedure is possible except that which is laid down in the Bill as it stands. I, therefore, beg to oppose the amendment, Sir.

The motion was put and lost.

Mr. P. BANERJI: In order to shorten discussion on this Bill I may say that I do not want to move any other motion, for the simple reason that the members are all anxious to go home to-day.

The motion that clause 6 stand part of the Bill was then put and agreed to.

Mr. G. P. HOGG: I beg to move that after clause 7 (2), the following be added, namely:—

"Provided that the Local Government may, at any time, cancel or suspend such order or reduce the period for which the said person is required to leave Bengal or the notified area."

This amendment speaks for itself and I need not detain the House by dwelling on it. In the working of the Goondas Act, it has been

found to be a source of inconvenience that a power of this kind is not provided in the Act. There are occasions when it is desirable or advisable that an externed person should be allowed to return to Bengal, for instance, to give evidence in court, and hon'ble members of this Council themselves can conceive of occasions on which it might be desirable to have such a suspending power. That, Sir, explains the amendment which stands in my name and I, therefore, commend it to the acceptance of the House.

The motion was put and agreed to.

The motion that clause 7, as amended in Council, and clauses 8 to 12, stand part of the Bill was then put and agreed to.

The motion that the preamble stand part of the Bill was also put and agreed to.

The Hon'ble Mr. R. N. Reid: I beg to move that the Bengal Smuggling of Arms Bill, 1934, as settled in Council, be passed.

Mr. SHANTI SHEKHARESWAR RAY: I oppose the motion moved by the Hon'ble Member in charge of the Bill. Sir, at this late hour of the day it is very difficult to place any view with success. I know that my opposition will not be fruitful, and the Bill will be passed as asked by the Hon'ble Mr. Reid. Still I take this opportunity of opposing this Bill. Sir, the Bill has in no way been improved by the Select Committee. The only thing that the Government have conceded and the Select Committee have accepted is an attempt to placate the lawyers. I find that a person in custody will be given reasonable facilities for communicating with his legal advisers. I do not understand how the person will derive any benefit if he cannot personally consult with his lawyers or let his lawyers appear on his behalf and place his case before the Judge. The Government would have been consistent if they had made this concession, not only at a preliminary stage, but at a later stage also when the matter would have been before the Judges. Why should the Judges fight shy of the lawyers? The man who is hauled up may be illiterate. Why should the Government deny him the privilege of placing his case intelligently before the Judges who are to advise Government as to the action to be taken. The provisions of the Bill remain more or less as vague as before. At this late hour I shall not go over all the points, but I would refer to one or two, not with the hope that the Government will drop this measure, but with the hope that after further examination they may find some defects in it and bring in an amending Bill to fill up the lacunae in the Bill. Sir, I am emboldened to make this assertion because I find that in connection with this Bill Mr. Hogg himself has come forward with a similar amendment which Government—Mr. Reid—objected to in connection with another Bill—I mean the Terrorists Bill—when it was brought to his notice by me.

Anyway, it gives me some satisfaction to find that though the Government could not accept that amendment, in connection with the Terrorists Bill, they now feel that it is a just provision and they have accordingly made this provision in connection with this Bill. Sir, the point I was referring to is this: if you refer to clause 5 you will find that there is the provision for the issue of warrant by a Presidency Magistrate or the District Magistrate. The issue of this warrant is not left to the discretion of the Presidency Magistrate or District Magistrate, but he has only to carry out orders of the Local Government, which is only an indirect way of enforcing the orders of Government. Well, I do not want to go into the merit of such a procedure, but I would like to know how this warrant is to be executed. What authority is this warrant going to have? Is this going to be civil warrant, is this going to be executed by the peons of a civil court, or is it going to be executed by the police? There is no indication in the Bill about that. Of course there is a provision to bring this measure in conformity with the existing law by taking certain subsequent action to make the warrant legal and that such warrant shall for the purposes set forth in clauses (*i*) and (*ii*) be deemed to be a warrant issued by the Presidency Magistrate or the District Magistrate under the Code of Criminal Procedure. But so far as the early stage is concerned, there is no provision anywhere as to what is going to be the effect of this warrant and how it is going to be executed. Then, there is the further question of custody. It is stated that the persons arrested under such warrant shall be detained in custody under the orders of the Local Government. Sir, I have gone through the Bill and I do not find in whose custody the person is to remain, whether in police custody or jail custody; that point is vague and indefinite. Is he to be put in civil jail or criminal jail? I hope the Hon'ble Member, Mr. Reid, will have to say something on this point. I would like to point out the difficulty he will be in. Well, if this warrant is treated as a warrant under the Code of Criminal Procedure, then all the difficulties, which the Hon'ble Member desires to avoid by this extraordinary and abnormal measure, will crop up. He cannot be detained in police custody for a long and indefinite time. He must be produced before the court; then a lawyer will come in, he will come for bail and if bail be refused, then he will have the right of appeal. Sir, I hope sooner or later the Government will try to rectify this. I am told that this is the procedure under the Goonda Act and it is working wonderfully. Well, perhaps the *goonda* has not the same facility as the smugglers may have. I can well realise the difficulty of Government in this matter. They are in a very unenviable position. In the Statement of Objects and Reasons they assert that they believe that the arms are being smuggled by "recognised dealers." At the same time they are not very sure of their own ground. They proceed on an inference. They have not got the materials to make a definite statement. On the last occasion I asked

the Hon'ble Member who was in charge of the Bill to come forward with materials before the House that would justify us in giving our sanction to such an extraordinary measure. Well, materials were not there and I believe the materials cannot be even found to-day. The Hon'ble Mr. Reid has to-day mentioned the terrorists; he has conveniently left out the robbers and thieves whom Mr. Hogg brought in the other day. We can get any measure passed nowadays by just mentioning the terrorists. If it is to suppress the terrorists, all our sense of decency, all our reasoning faculties must be lulled and we are blind-foldedly to support the Government. Sir, while by repeated assertions, by threats and by various other methods the Government of Bengal have created a situation in the country, where such unworthy, unwarranted and unjust actions of the Government go unchallenged, I shall be failing in my duty to the Government and to my country and to the House, if I do not raise a single voice of protest against such an unlawful action.

The Hon'ble Mr. R. N. REID: At this late hour, a fact to which Mr. Shanti Shekhareswar Ray has made frequent reference but has refused to allow himself to be influenced by, I feel that there is no necessity to say more than this. It is quite clear, first, that this House is not in sympathy with the sentiments of the last speaker; and, secondly, that the members are interested in bringing this discussion to a close. I move that this question be put.

The motion that the Bengal Smuggling of Arms Bill, 1934, as settled in this Council, be passed was put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m. on Monday, the 19th February, 1934, at the Council House, Calcutta.

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Index to the Bengal Legislative Council Proceedings.

(Official Report.)

Vol. XLIII—No. 3—Forty-third Session.

13th to 15th February, 1934.

(Q.) Stands for question. (S. Q.) Stands for supplementary question.

Adjournment : 64, 110, 153.

Ali, Maulvi Hassan

Bengal Waterways Bill, 1934 : 130.

Attendance of members : 13, 65, 111.

Bassh, Maulvi Syed Majid

Bengal Waterways Bill, 1934 : 31 32, 49, 57, 101, 107-108.

Erosion of Narayanganj town (S. Q.) : 28

Jessore courts and Juma prayer adjournment (Q.) 16-17.

Orders of externment in Midnapore (S Q.) 21

Banerji, Mr. P.

Bengal Smuggling of Arms Bill, 1934 146-147, 149 150

Bengal Waterways Bill, 1934 : 91.

Route marches of soldiers in Midnapore (S Q.) 23

Basu, Mr. Narendra Kumar

Bengal Waterways Bill, 1934 33, 35, 59, 63, 68, 72, 75, 89, 98-99, 106, 108-109, 121, 136, 138.

Materials for construction of the new Howrah Bridge (S. Q.) . 16.

Orders of externment in Midnapore (S. Q.) : 19-20.

Route marches of soldiers in Midnapore (Q.) . 21-23.

Bill—

Bengal Criminal Law Amendment—, 1934—

Presentation of the report of the Select Committee on : 28.

Bill—

Bengal Smuggling of Arms , 1934 . 145-153.

Consideration of : 146.

Passing of . 153.

Bengal Waterways , 1934 28-145.

Passing of : 143.

Resumption of the consideration of : 28.

Cattle Trespass (Bengal Amendment), 1934 : 143-145

Consideration of : 143

Introduction of : 143.

Passing of 145.

Birkmyre, Mr. H.

Bengal Waterways Bill, 1934 : 77

Bose, Mr. S. M.

Bengal Waterways Bill, 1934 76, 98, 130.

Chittagong

Noabad *taluks* in . (Q.) 15

Chowdhury, Haji Badi Ahmed

Bengal Waterways Bill, 1934 : 31.

Noabad *taluks* in Chittagong (Q.): 15.

Chowdhury, Maulvi Nural Absar

Materials for construction of the new Howrah Bridge (Q.) : 16

Das, Rai Bahadur Satyendra Kumar

Erosion of Narayanganj town (S. Q.) : 27

Gratis

Division(s)

Bill—

Bengal Waterways—, 1934—

Insertion of "Provided that on the representation of the Board or otherwise, the Local Government may raise its contribution to any sum larger than the amount provided in this section" after clause 87, carried : 63 to 22 : 99-100.

Insertion of the words "day of a" after the word "each" in clause 37(*1*)(*a*), line 6 : lost, 20 to 60 : 30-31.

Omission of the words "for the purposes of navigation" in the first paragraph of the preamble in line 3, lost : 29 to 58 ; 139.

Proviso after clause 49A, carried : 35 to 27 : 59-60.

Substitution in sub-clause (*1*) of clause 40 : carried, 56 to 20 : 38.

Substitution of the word "may" for the word "shall" in clause 42(*1*), in line 1, lost : 30 to 37 : 46.

Substitution of "two lakhs and fifty thousand" for "five lakhs" in clause 87, line 4, carried : 48 to 41 : 86-87.

The motion that clause 87, as amended in the Council, stand part of the Bill, carried: 64 to 12 : 100-101.

Faridpur railway station : (Q.) 24.

Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur

Materials for construction of the new Howrah Bridge (Q.) : 16.

Fawcus, Mr. L. R.

Bengal Waterways Bill, 1934 : 33, 37, 51, 57, 63, 67, 69, 76, 82, 102, 104, 106, 108-109, 126-128.

Gilchrist, Mr. R. N.

Bengal Waterways Bill, 1934 : 48.

Ghaznavi, the Hon'ble Alhaj Nawab Bahadur Sir Abdelkerim, of Dilduar

Bengal Waterways Bill, 1934 : 29, 31-32, 34, 37, 39, 41-42, 44, 46-48, 50-52, 54-58, 60-62, 64, 66-68, 78-80, 84-85, 93, 96-97, 99, 101, 103-105, 107, 109, 113, 133, 136, 138-139, 143.

Erosion of Narayanganj town (Q.) : 27-28.

Haque, Khan Bahadur Maulvi Azizul

Bengal Waterways Bill, 1934 : 28-29, 35, 37, 41-42, 45, 47-48, 50-52, 58-59, 63, 65, 83, 86-87, 97, 103-104, 113, 116, 120, 140.

Hegg, Mr. G. P.

The Bengal Smuggling of Arms Bill, 1934 : 150-151.

Hoque, Kazi Emdadul

Bengal Waterways Bill, 1934 : 36, 66.

Hossain, Nawab Musharruf, Khan Bahadur

Bengal Waterways Bill, 1934 : 75-76, 84, 132.

Howrah Bridge

Materials for construction of the new : (Q.) 16.

Jessore Courts

And Juma prayer adjournment : (Q.) 16-17.

Khan, Maulvi Tamizuddin

Bengal Waterways Bill, 1934 : 59, 62, 98.

Maiti, Mr. R.

Orders of externment in Midnapore (Q.) : 17.

Martin, Mr. C. M.

Noabad *taluks* in Chittagong (Q.) : 15.

Members

Attendance of : 13, 65, 111.

Midnapore

Orders of externment in : (Q.) 17-21.

Route marches of soldiers in : (Q.) 21-23.

Miller, Mr C. C.

Bengal Waterways Bill, 1934 : 90, 96.

Mitter, the Hon'ble Sir Provash Chunder

Obituary reference of : 13.

Momin, Khan Bahadur Muhammad Abdul

Bengal Waterways Bill, 1934 : 40-41, 45, 76, 86, 89, 108, 110-111, 128, 138.

Jessore Courts and Juma prayer adjournment (S. Q.) : 17.

Narayanganj town

Erosion of : (Q). 26-28.

Noabad taluks

In Chittagong : (Q.) 15.

Oath or affirmation

Mr. A. deC. Williams, I.C.S. : 65.

Obituary reference

The Hon'ble Sir Provash Chunder Mitter : 13-15.

President (the Hon'ble Raja Sir Manmatha Nath Ray Chowdhury, Kt., of Santosh)

Observation by—

Amendments covered by previous amendments cannot be moved : 49.

Delegation of the functions of the Member in charge : 143.

It is impossible to ask the House to consider in the same session a matter on which it has already come to a decision : 147.

It is particularly the duty of the member concerned to bring to the notice of the Chair that the consideration of a motion should not be taken until his amendment for the recommittal of the Bill is taken into consideration : 146.

It is the duty of the member to rise and claim his privilege whether his name is called or not : 145

Qunsem, Maulvi Abul

Bengal Waterways Bill, 1934 : 29, 35, 50, 53-54, 57, 60-62, 67, 92, 104, 120

Cattle Trespass (Bengal Amendment) Bill, 1934 : 144.

Ray, Babu Amulyadhan

Bengal Waterways Bill, 1934 : 58.

Recruitment of sub-assistant surgeons (S. Q.) : 26.

Ray, Babu Khetter Mohan

Bengal Waterways Bill, 1934 : 51, 82, 125-128.

Ray, Mr. Shanti Shekhareswar

Bengal Smuggling of Arms Bill, 1934 : 145, 151.

Bengal Waterways Bill, 1934 : 86, 97-98, 142-143.

Orders of externment in Midnapore (S. Q.) : 20.

Route marches of soldiers in Midnapore (S. Q.) : 23.

Ray Chowdhury, Babu Satish Chandra

Bengal Waterways Bill, 1934 : 74, 83, 118, 120.

Orders of externment in Midnapore (S. Q.) : 19.

Recruitment of sub-assistant surgeons (Q.) : 24-26.

Recruitment of sub-assistant surgeons : (Q) 24-26.

Reid, The Hon'ble Mr. R. N.

Bengal Criminal Law Amendment Bill, 1934 : 28

Bengal Smuggling of Arms Bill, 1934 : 145, 150-151, 153.

Cattle Trespass (Bengal Amendment) Bill, 1934 : 143, 145.

Jessore Courts and Jumna prayer, adjournment (Q.) : 17.

Orders of externment in Midnapore (Q.) : 18-21.

Route marches of soldiers in Midnapore (Q) : 21-23.

Ray, the Hon'ble Sir Bijoy Prasad Singh

Recruitment of sub assistant surgeons (Q.) : 24, 26.

Roy, Mr. Sarat Kumar

Bengal Waterways Bill, 1934 : 55, 105.

Sahana, Babu Satya Kinkar

Bengal Waterways Bill, 1934 : 79, 84, 123.

Shah, Maulvi Abdul Hamid

Bengal Waterways Bill, 1934 : 56.

Sen, Rai Sahib Akshoy Kumar

Faridpur railway station (Q.) : 24

Sen Gupta, Dr. Naresh Chandra

Bengal Waterways Bill, 1934 : 31-32, 36, 39, 43, 48, 67, 69, 73, 80-84, 88, 115-116.

Orders of externment in Midnapore (S. Q.) : 20

Route marches of soldiers in Midnapore (S. Q.) : 23

Steven, Mr. J. W. R.

Erosion of Narayanganj town (Q.) : 26, 28.

Suhrawardy, Mr. H. S.

Bengal Waterways Bill, 1934 : 110.

Sumner, Mr. C. R.

Bengal Waterways Bill, 1934 : 70, 79.

Thompson, Mr. W. H.

Bengal Waterways Bill, 1934 : 38, 52, 58, 64, 97-98.

Williams, Mr. A. deC., I.C.S.

Sworn in : 65.

Woodhead, the Hon'ble Mr. J. A.

Faridpur railway station (Q.) : 24.

B. G. Press—1934-35—7366A—550.